NATIONAL STEERING COMMITTEE
FOR THE REAUTHORIZATION OF THE
INDIAN HEALTH CARE IMPROVEMENT ACT, P.L. 94-437

PROPOSED IHCIA AMENDMENTS OF 2000
(with Commentary)

October 6, 1999

Indian Health Care Improvement Act, P.L. 94-437 (with National Steering Committee proposed amendments)	Comments
Public Law 94-437 – 94th Congress, S. 522, September 30, 1976 (as amended by: P.L. 96-537 (12/17/80); P.L. 100-579 (10/31/88); P.L. 100-690 (11/18/88); P.L. 100-713 (11/23/88); P.L. 101-630 (11/28/90); P.L. 102-573 (10/29/92); P.L. 104-313 (10/19/96))	
To implement the federal responsibility for the care and education of the Indian people by improving the services and facilities of federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.	
Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "Indian Health Care Improvement Act."	
FINDINGS **SEC. 2.** The Congress finds the following: (a) federal delivery of health services and funding of tribal and urban Indian health programs to maintain and improve the health of the Indians are consonant with and required by the federal government's historical and unique legal relationship, as reflected in the Constitution, treaties, federal statutes and the course of dealings of the United States with Indian Tribes ~~with,~~ and the United States' resulting Government to Government and trust responsibility and obligations to the American Indian people. (b) From the time of European occupation and colonization through the twentieth century policies and practices of the United States caused and/or contributed to the severe health conditions of Indians. (c) ~~(e)~~ Indian Tribes, have, through the cession of over 400 million acres of land, to the United States in exchange for promises, often reflected in treaties, of health care secured a *de facto* contract which entitles Indians to health care in perpetuity, based on the moral legal and historic obligation of the United States. (d) ~~(g)~~ The population growth of the Indian people that began in the later part of the twentieth century increases the need for federal health care services. (e)~~(b)~~ A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians regardless of where they live to be raised to the highest possible level that is no less than that of the general population and to provide for ~~encourage~~ the maximum participation of ~~Indians~~ Indian Tribes, tribal organizations, and urban Indian organizations in the planning, delivery and management of those services. (f) ~~(c)~~ federal health services to Indians have resulted in a reduction in the prevalence and incidence of ~~preventable~~ illnesses among, and unnecessary and premature deaths of, Indians.	*Findings have been revised to reflect the comments received. The order of findings may be changed. Emphasis has been placed on the trust responsibility and obligations of the U.S. to Indians. The order of the findings has been rearranged to follow logically.*

(g) ~~(d)~~ Despite such services, the unmet health needs of the American Indian people remain alarmingly ~~are~~ severe, and even continue to decline, and the health status of Indians is far below the health status of the general population of the United States.	
(h) The disparity to be addressed is formidable, in death rates, for example , Indian people suffer a death rate for diabetes mellitus that is 249% higher than the all races rate for the United States; a pneumonia and influenza death rate 71% greater; a tuberculosis death rate that is 533% greater; and a death rate from alcoholism that is 627% higher than that of the all races United States rate.	*This is the data used by IHS for FY 2001 budget development.,*
DECLARATION OF NATIONAL INDIAN HEALTH ~~OBJECTIVES~~ POLICY **SEC. 3** (a). The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to the American Indian people, to assure the highest possible health status for Indians ~~and urban Indians~~ and to provide all resources necessary to affect that policy. (b) It is the intent of the Congress that the Nation raise the health status of ~~meet the following health status objectives with respect to~~ Indians ~~and urban Indians~~ by the year 2010 ~~2000~~ to at least the levels set forth in the goals contained within the *Healthy People 2000* or successor standards. ~~(1)Reduce coronary heart disease deaths to a level of no more than 100 per 100,000.~~ ~~(2) Reduce the prevalence of overweight individuals to no more than 30 percent.~~ ~~(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.~~ ~~(4)Reduce the level of cancer deaths to a rate of no more than 130 per 100,000.~~ ~~(5)Reduce the level of lung cancer deaths to a rate of no more than 42 per 100,000.~~ ~~(6)Reduce the level of chronic obstructive pulmonary disease related deaths to a rate of no more than 25 per 100,000~~ ~~(7)Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.~~ ~~(8)Reduce cirrhosis deaths to no more than 13 per 100,000.~~ ~~(9)Reduce drug-related deaths to no more than 3 per 100,000.~~ ~~(10)Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.~~ ~~(11)Reduce suicide among men to no more than 12.8 per 100,000.~~ ~~(12)Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.~~ ~~(13)Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.~~ ~~(14)Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.~~ ~~(15)Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.~~ ~~(16)Increase years of healthy life to at least 65 years.~~ ~~(17)Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.~~ ~~(18)Reduce deaths caused by motor vehicle crashes to no more than 39.2 per~~	*The health status objectives for Indians should beat least as good as the Nation as a whole.* *Area and tribal planning processes are identified in (a)(2), but under (3) the right of Tribes and tribal organizations to develop unique objectives is retained.*

~~100,000.~~

~~(19)Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dl and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dl.~~

~~(20)Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.~~

~~(21)Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 40 percent among adolescents aged 15.~~

~~(22) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.~~

~~(23) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.~~

~~(24) Reduce destructive periodontal disease to a prevalence of no more than 15 percent among individuals aged 35 to 44.~~

~~(25)Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.~~

~~(26)Reduce the prevalence of gingivitis among individuals aged 35 to 44 to no more than 50 percent.~~

~~(27)Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.~~

~~(28)Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.~~

~~(29)Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.~~

~~(30)Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.~~

~~(31)Reduce stroke deaths to no more than 20 per 100,000.~~

~~(32)Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.~~

~~(33)Reduce breast cancer deaths to no more than 20.6 per 100,000 women.~~

~~(34)Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.~~

~~(35)Reduce colorectal cancer deaths to no more than 13.2 per 100,000.~~

~~(36)Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.~~

~~(37)Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.~~

~~(38)Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.~~

~~(39)Reduce diabetes-related deaths to no more than 48 per 100,000.~~

~~(40)Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.~~

~~(41)Reduce the most severe complications of diabetes as follows:~~

~~(A) End-stage renal disease, 1.9 per 1,000.~~

~~(B) Blindness, 1.4 per 1,000.~~

~~(C) Lower extremity amputation, 4.9 per 1,000~~

~~(D) Perinatal mortality, 2 percent.~~

~~(E) Major congenital malformations, 4 percent.~~

~~(42)Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases~~

~~(43)Confine the prevalence of HIV infection to no more than 100 per~~

~~100,000.~~

~~(44)Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.~~

~~(45)Reduce chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.~~

~~(46)Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.~~

~~(47)Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.~~

~~(48)Reduce viral hepatitis B infection to no more than 40 per 100,000 cases.~~

~~(49)Reduce indigenous cases of vaccine-preventable diseases as follows:~~

~~(A) Diphtheria among individuals aged 25 and younger, 0.~~

~~(B) Tetanus among individuals aged 25 and younger, 0.~~

~~(C) Polio (wild-type virus), 0.~~

~~(D) Measles, 0.~~

~~(E) Rubella, 0.~~

~~(F) Congenital Rubella Syndrome, 0.~~

~~(G) Mumps, 500.~~

~~(H) Pertussis, 1,000.~~

~~(50) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.~~

~~(51)Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.~~

~~(52)Reduce tuberculosis to an incidence of no more than 5 cases per 100,000.~~

~~(53)Reduce bacterial meningitis to no more than 8 cases per 100,000.~~

~~(54)Reduce infectious diarrhea by at least 25 percent among children.~~

~~(55)Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.~~

~~(56)Reduce cigarette smoking to a prevalence of no more than 20 percent.~~

~~(57)Reduce smokeless tobacco use by youth to a prevalence of no more than 10 percent.~~

~~(58)Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.~~

~~(59)Increase to at least 75 percent the proportion of mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.~~

~~(60)Increase to at least 90 percent the proportion of pregnant women who receive prenatal care in the first trimester of pregnancy.~~

~~(61)Increase to at least 70 percent the proportion of individuals who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.~~

(c) In order to raise the health status of Indian people to at least the Healthy People 2000, or its successor, goals, Indian Tribes and tribal organizations may set their own health care priorities and establish goals that reflect their unmet needs.

(d) ~~(c)~~ It is the policy ~~intent~~ of the Congress that the Nation increase the proportion of all degrees in the health professions and allied and associated health professions ~~fields~~ awarded to Indians so that the proportion of Indian health professionals in each geographic service area is raised to at least the level of that of the general population ~~0.6 percent~~.	*The level has to be higher than that of the proportion of Indians to the general population or the level will never match that of the general population.*
~~(d) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b).~~ (e) It is the policy of Congress to require meaningful ~~active~~ consultation with Indian Tribes, Indian organizations, and urban Indian organizations ~~people~~ to implement this Act and the national policy of Indian self-determination. (f) It is the policy of Congress that funds for health care programs and facilities operated by Tribes and tribal organizations be provided no less funds than are provided to programs and facilities operated directly by the Service.	*The responsibility for reports about objectives should not be shifted to IHS or the Tribes. It should rest with the same federal agency responsible for reporting on the status for the Nation.*
DEFINITIONS **Sec. 4.** For purposes of this Act– (a) "Accredited and accessible" means a community college or other appropriate entity on or near a Reservation and accredited by a national or regional organization with accrediting authority (b) ~~(i))~~ "Area office" mean an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.	
(c) "Contract health service" means health services provided at the expense of the Service, Indian Tribe or tribal organization from public or private medical providers or hospitals, other than those funded under the Indian Self-Determination and Education Assistance Act or under Title. (d) "Department" means, unless otherwise designated, the Department of Health and Human Services. (e) "Director" shall have the meaning provided in section 601 of this Act. (f) "Fund" or "funding" means the transfer of monies from the Department to any eligible entity or individual under the Act by any legal means, including funding agreements, contracts, memoranda of understanding, Buy Indian Act contracts or otherwise.	
(g) "Funding Agreement" means any agreement to transfer funds for the planning, conduct, and administration of programs, functions , services and activities to Tribes and tribal Organizations from the Secretary under the authority of the authority of the Indian Self Determination and Education Assistance Act. (h) ~~(n)~~ "Health profession" means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy,	

chiropractic medicine, environmental health and engineering, and allied health professions, or any other health profession.	
(i) "Health promotion" and "disease prevention" shall have the meaning provided in section 203(c) of this Act.	*The full definitions found in (k) and (l) have been moved, as amended, to section 203.*
(j) ~~(c)~~ "Indians" or "Indian" shall have the same meaning as provided in the Indian Self Determination and Education Assistance Act. ~~unless otherwise designated, means any person who is a member of an Indian Tribe, as defined in subsection (d) hereof, except that, for the purpose of section 102 and 103, such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a Tribe, band, or other organized group of Indians, including those Tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered~~ by the ~~Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.~~	*The (1) - (4) exceptions that were part of the definition of Indians have been moved to title I, sections 103 and 104 where they apply. Otherwise the definition has been made to conform to the ISDEAA to maintain coherent and consistent definitions of key legal concepts.*
(k)~~(ee)~~ "Indian health program" shall have the meaning provided in Section 110 (a)(2)(A) .	
(l)~~(d)~~ "Indian Tribe" shall have the same meaning as provided in the Indian Self Determination and Education Assistance Act. ~~pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians~~.	*This definition has been written to conform to the ISDEAA to maintain coherent and consistent definitions of key legal concepts. The meaning does not change from the existing IHCIA.*
(m) "Reservation" means any federally recognized Indian Tribe's reservation, Pueblo or colony, including former reservations in Oklahoma, Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and Indian allotments. (n)~~(a)~~ "Secretary", unless otherwise designated, means the Secretary of Health and Human Services.	
(o)~~(b)~~ "Service" means the Indian Health Service. (p)~~(m)~~ "Service area" means the geographical area served by each area office. (q)~~(j)~~ "Service unit" means– (1) an administrative entity within the Indian Health Service, or (2) a Tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act, through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.	
(r)~~(s)~~"Traditional health care practices" means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to Western Healing Sciences) which embodies the influences or forces of innate tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which calls upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation and maintenance of health, well-being, and life's harmony. (s)~~(e)~~ "tribal organization" shall have the same meaning as provided in the Indian Self Determination and Education Assistance Act means the elected governing	*"Native healing practitioners" and "traditional health care practitioners," which is the term used throughout this Act for the providers of traditional health care practices, include such practitioners when engaged in offering behavioral health services as well as physical (or medical) health services.*

Indian Self Determination and Education Assistance Act ~~means the elected governing body of any Indian Tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of~~ (t)~~(hh)~~ "tribally Controlled Community College" means the definition provided in Section 126 of this Act and the definition contained in the Indian Land Grant Status Act, 7 U.S.C. 301 note. (u)~~(g)~~ "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under Title V, as determined by the Secretary.	
(v) ~~(f)~~ "Urban Indian" means any individual who resides in an urban center, as defined in subsection (g) hereof, and who meets one or more the four criteria ~~in subsection (c)(1) through (4) of this section~~ contained herein: (1) irrespective of whether he or she lives on or near a reservation, is a member of a Tribe, band or other organized group of Indians , including those Tribes , bands or groups terminated since 1940; or (2) is an Eskimo or Aleut or other Alaskan Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary~~.~~	
(w)~~(h)~~ "Urban Indian organization" means a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the ~~maximum~~ participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).	
~~(k) "Health promotion" includes~~ ~~(1) cessation of bobacco smoking,~~ ~~(2) reduction in the misuse of alcohol and drugs,~~ ~~(3) improvement of nutrition,~~ ~~(4) improvement in physical fitness,~~ ~~(5) family planning,~~ ~~(6) control of stress, and~~ ~~(7) pregnancy and infant care (including prevention of fetal alcohol syndrome).~~ ~~(l) "Disease prevention" includes~~ ~~(1) immunizations,~~ ~~(2) control of high blood pressure,~~ ~~(3) control of sexually transmittable diseases,~~ ~~(4) prevention and control of diabetes,~~ ~~(5) control of toxic agents,~~ ~~(6) occupational safety and health,~~ ~~(7) accident prevention,~~ ~~(8) fluoridation of water, and~~ ~~(9) control of infectious agents.~~	*These definitions have been moved, as amended, to section 203.*
	(o) substance abuse, (p) FAE and (q) FAS have been moved to Title VII.
TITLE I – INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT ~~MANPOWER~~	
PURPOSE **SEC. 101.** The purpose of this title is to increase to the maximum feasible extent the number of Indians entering the health professions and providing health services, and to	*The Title change reflects the broadest view of what professions are included as health professionals.*

assure an optimum ~~adequate~~ supply of health professionals to the Service, Indian Tribes, tribal organizations, and urban Indian organizations involved in the provision of health services ~~care~~ to Indian people.	
GENERAL REQUIREMENTS **SEC. 102. (a) SERVICE AREA PRIORITIES.** Unless otherwise specified the funding for each program authorized by this Title shall be allocated by Service Area by formula developed in consultation with Indian Tribes, tribal organizations and urban Indian organizations; such formula shall consider the human resource and development needs in each Service Area. (1) Each area office shall undertake active and continuing consultation with representatives of Indian Tribes, tribal organizations, and urban Indian organizations to prioritize the utilization of funds authorized and provided under this Title within the service area. (2) Unless otherwise prohibited, the Area Office is authorized to re-allocate the funds available to it pursuant to this Title among the programs authorized by this Title, provided that scholarship, and loan repayment funds shall not be used for administrative functions. (b) All individual recipients of scholarships, loans or other funding authorized by this title that exist on the day before the enactment of this Act shall be excluded from operation of subsection 102 of this title through to the completion of his/her course of study supported by funds appropriated to carry out this title.	*The new section 102 follows a policy determination to allocate resources and decision-making by Service area. This title also replaces competitive grants and demonstrations with program authorizations. It is intended to provide the local Tribes, tribal organizations, urban Indian programs, and the Service with significant discretion to address human resource development in the local context.* *Scholarship and loan recipients already in the pipeline are protected from the new requirements.* *The phrase "urban Indian organizations" replaces the phrase "Indian organizations" throughout this title to avoid confusion and maintain the status that is provided in existing law*
HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS **SEC. 103. ~~102~~** (a) Subject to the requirements of Section 102, the Secretary, acting through the Service, shall make funds available ~~grants~~ to public or nonprofit private health ~~or educational~~ entities or Indian Tribes or tribal organizations to assist such entities in meeting the costs of– (1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in courses of study in such health professions; or (B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment; (2) publicizing existing sources of financial aid available to Indians enrolled in any courses of study preferred to in paragraph (1) of this subsection or who are undertaking training necessary to qualify them to enroll in any such school; or	

(3) (4) (3) establishing other programs which the Area Office ~~Secretary~~ determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of courses of study, referred to in paragraph (1) of this subsection.	
(b)(1) Funds under this section shall require that ~~No grant may be made under this subsection unless~~ an application ~~therefore~~ has been submitted to, and approved by the Secretary through the Area Office. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe pursuant to this Act. The Area Office ~~Secretary~~ shall give a preference to applications submitted by Indian Tribes, tribal ~~Indian~~ organizations, or urban Indian organizations. (2) The amount of funds provided to entities authorized ~~any grant~~ under this section shall be determined by the Area Office ~~Secretary~~. Payments pursuant to this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations issued pursuant to this Act ~~the Secretary finds necessary~~, and, to the extent not otherwise prohibited by law, funding commitments shall be for three (3) years, as provided for in regulations published pursuant to this Act.	
(c) For purposes of this section and section 104 and 105, "Indian or Indians" shall, in addition to the meaning contained in section 4 of this Act, also mean any person who (1) irrespective of whether he or she lives on or near a reservation, is a member of a Tribe, band, or other organized group of Indians, including those Tribes, bands, or groups terminated since 1940, (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.	*These are the exceptions found in the current law that apply only to sections 103 and 104 (formerly 102 and 103). State recognized Indians were dropped from the 4 points as inconsistent with the government-to-government relationship.*
HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS **Sec. 104 ~~103.~~** (a) Subject to the requirements of Section 102, ~~T~~ the Secretary, acting through the Service, shall provide ~~make~~ scholarships ~~grants~~ to Indians who– (1) have successfully completed their high school education or high school equivalency; and (2) have demonstrated the potential ~~capability~~ to successfully complete courses of study in the health professions. (b) Scholarships provided ~~grants made~~ pursuant to this section shall be for the following purposes: (1) compensatory preprofessional education of any recipient ~~grantee~~, such scholarship not to exceed two years on a full-time basis (or the part-time equivalent thereof, as determined by the area office pursuant to regulations issued under this Act ~~Secretary~~). (2) Pregraduate education of any recipient ~~grantee~~ leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years provided, however, that an up to two-year extension as necessary may be approved (or the part-time equivalent thereof, as determined by the	

~~Secretary~~ Area Office pursuant to regulations issued pursuant to this Act). (c) Scholarships ~~grants~~ made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient ~~grantee~~ while attending school. (d) ~~The Secretary shall not deny s~~ Scholarship assistance to an eligible applicant under this section shall not be denied solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution. (e) ~~The Secretary shall not deny s~~ Scholarship assistance to an eligible applicant under this section shall not be denied solely by reason of such applicant's eligibility for assistance or benefits under any other federal program.	
INDIAN HEALTH PROFESSIONS SCHOLARSHIP **Sec. 105 ~~104~~.** (a) In order to meet the need for ~~provide~~ health professionals to Indians, Indian Tribes, tribal organizations and urban Indian organizations, subject to the requirements of section 102, provided, however, that the administration of this section shall be a responsibility of the Director that shall not be delegated in a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, the Secretary, acting through the Service and in accordance with this section, shall make scholarships ~~grants~~ to Indians who are enrolled full or part time in ~~appropriately~~ accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 2541), except as provided in subsection (b) of this section. (b) ~~(1) The Secretary, acting through the Service, shall determine who shall receive scholarships under subsection (a) and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs pf Indians for additional service in such health professions.~~ ~~(2)~~. (1) An Indian ~~individual~~ shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a). (2) ~~(3)~~ (A) The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C.254*l*) that an Indian ~~individual~~ has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice on an equivalent year for year obligation, by service– (i) in the Indian Health Service; (ii) in a program conducted under a funding agreement ~~contract~~ entered into under the Indian Self-Determination and Education Assistance Act.;	*Former section 104 (a) is divided into 105 (a) and (b)(1); .old104 (b)(1) is deleted to clarify that the Secretary's role is only administrative.*

(iii) in a program assisted under title V of this Act;

(iv) in the private practice of the applicable profession if, as determined by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians, or

(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for any appropriate period (in years, as determined by the Secretary), subject to the following conditions:

(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

(ii) The active duty service obligation of that individual shall commence not later that 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

(iii) The active duty service obligation will be served in the health profession of that individual, or in a field or specialty where a need is determined to exist by the appropriate Service Area , in a manner consistent with clauses (i) through (iv) of subparagraph (A).

(C) All new recipients of ~~A recipient of an~~ Indian Health Scholarships awarded after 2001 shall ~~may, at the election of the recipient,~~ meet the active duty service obligation within the service area from which the scholarship was awarded. Priority shall be given to a program that funded the recipient, provided, however, for special circumstances, a recipient may be placed in a different Service Area by agreement between Areas or programs. ~~— described in subparagraph by service in a program specified in that subparagraph.~~

~~(i) is located on the reservation of the Tribe in which the recipient is enrolled; or~~

~~(ii) serves the Tribe in which the recipient is enrolled.~~

(D) Subject to subparagraph (C), the Area Office ~~Secretary~~, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation, described in subparagraph (A), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

(3) ~~(4)~~ In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study--

(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Area Office ~~Secretary~~;

(B) the period of obligated service described in paragraph (2)(A), shall be equal to the greater of--

(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Area Office ~~Secretary~~); or

(ii) two years; and

(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42U.S.C. 2541(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

(4) ~~(5)~~(A) An individual who has, on or after the date of the enactment of this paragraph, entered into a written contract with the Secretary under this section and who--

(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(ii) is dismissed from such educational institution for disciplinary reasons,

(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(B) If for any reason not specified in subparagraph (A) an individual breaches his/her written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.

(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the

Secretary in consultation with the Area office, Indian Tribes, tribal organizations and urban Indian organizations determines that– (i) it is not possible for the recipient to meet that obligation or make that payment; (ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or (iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable. (E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section. (F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.	
~~(c) The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. § 254m) without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy.~~	
(c) ~~Sec. 120.~~ Funding ~~Matching Grants~~ for Tribes for Scholarship Programs. ~~(a)~~ (1) (A) Subject to section 102, the Secretary shall make ~~grants~~ funds available to Indian Tribes and tribal organizations for the purpose of assisting such Tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities. ~~(2)~~ (B) Amounts available ~~for grants~~ under subparagraph (A) ~~(1)~~ for any fiscal year shall not exceed 5 percent of the amounts available for each fiscal year for Indian Health Scholarships under this section ~~104~~. ~~(3)~~ (C) An application for funds ~~a grant~~ under subparagraph (A) ~~(1)~~ shall be in such form and contain such agreements, assurances and information as consistent with ~~the Secretary determines are necessary to carry out~~ this section. ~~(b)~~ (2)(A) An Indian Tribe or tribal organization receiving funds under paragraph (1) shall ~~a grant under subsection (a) agree to~~ provide scholarships to Indians in accordance with the requirements of this subsection. (B) ~~(2)~~With respect to costs of providing any scholarship pursuant to	*Subsection (c) was section 120 which has been moved and amended.* *This subsection has been modified to allow Tribes or tribal organization to use any source of funds for their 20% match.*

subparagraph (A) ~~paragraph (1)~~ —

(i) ~~(A)~~ 80 percent of the costs of the scholarship shall be paid from the funds pursuant to subsection ~~(a)~~ (c)(1) provided to the Indian Tribe or tribal organization; and

(ii) ~~(B)~~ 20 percent of such costs may be paid from ~~non-federal contributions by the Indian Tribe or tribal organization through which the scholarship is provided~~ any other source of funds.

~~(3) In determining the amount of non-federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the federal Government to Indian Tribes or tribal organizations involved or to any other entity shall not be included~~.

(~~4) Non-federal contributions required by subparagraph (B) of paragraph (2) may be provided directly through the Indian Tribe or tribal organization involved or through donations from public and private entities.~~

(3) ~~(c)~~ An Indian Tribe or tribal organization shall provide scholarships under subsection (c) only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions ~~described in section 104(a)~~ contemplated by this Act.

(4) ~~(d)~~ In providing scholarships under paragraph (2) ~~subsection (b)~~, the Secretary and the Indian Tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall–

(A) ~~(1)~~obligate such recipient to provide service in an Indian health program (as defined in section 109(a)(2)(A), in the same service area where the Indian Tribe or tribal organization providing the scholarship is located, for –

(i) ~~(A)~~ a number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years , whichever period is greater; or

(ii) ~~(B)~~ such greater period of time as the recipient and the Indian Tribe or tribal organization may agree;

(B) ~~(2)~~ provide that the amount of the scholarship

(i) ~~(A)~~ may only be expended for—

(I) ~~(i)~~ tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

(II) ~~(ii)~~ payment to the recipient of a monthly stipend of not more than the

amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause ~~Subparagraph~~;

(ii) ~~(B)~~ may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in clause (i) ~~subparagraph (A)~~;

(C) ~~(3)~~ require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

(D) ~~(4)~~ require the recipient of such scholarship to meet the educational and licensure requirements appropriate to each health profession.

(5)(A) ~~(e)(1)~~ An individual who has entered into a written contract with the Secretary and an Indian Tribe or tribal organization under this paragraph ~~subsection~~ and who—

(i) ~~(A)~~ fails to maintain an acceptable level of academic standing in the education institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

(ii) ~~(B)~~ is dismissed from such education for disciplinary reasons;

(iii) ~~(C)~~ Voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

(iv) ~~(D)~~ fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract, shall be liable to the United States for the federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract.

(B) ~~(2)~~ If for any reason not specified in subparagraph (A) ~~paragraph (1)~~, an individual breaches his or her written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (1) of section 110 ~~108~~ in the manner provided for in such subsection.

(C) ~~(3)~~ The Secretary may carry out this subsection on the basis of information received from Indian Tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary deems appropriate.

(6) ~~(f)~~The recipient of a scholarship under paragraph (1) ~~subsection (b)~~ shall agree, in providing health care pursuant to the requirements herein ~~subsection (d)(1)~~ – (A) ~~(1)~~ not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be mage pursuant to the program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX of such Act; and (B) ~~(2)~~ to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan (7) ~~(g)~~ The Secretary shall make payments under this paragraph ~~subsection~~ to an Indian Tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian Tribe or tribal organization has not complied with the requirements of this subsection.	
AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM **SEC. 106.~~217.~~** Notwithstanding section 102, the Secretary ~~may~~ shall provide funding grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various locations throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time. (b) The Secretary shall provide one of the grants authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the "Quentin N. Burdick American Indians Into Psychology Program." Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian into Health Programs authorized under section 117 ~~114~~(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115 ~~112~~(e), and existing university research and communications networks. (c)(1) The Secretary shall issue regulations pursuant to this Act for the competitive awarding of funds ~~the grants~~ provided under this section. (2) Applicants ~~for grants~~ under this section shall agree to provide a program which, at a minimum– (A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and accredited and accessible community colleges ~~located on Indian reservations~~ that will be served by the program; (B) incorporates a program advisory board comprised of representatives from the Tribes and communities that will be served by the program;	

(C) ~~provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical and experimental activities~~ ~~(D)~~ provides stipends to undergraduate and graduate students to pursue a career in psychology; (D) ~~(E)~~ develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students; (E) ~~(F)~~ to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services; and (F) ~~(G)~~ to the maximum extent feasible, employs qualified Indians in the program. (d) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (c)(2)(D) that is funded ~~by a grant provided~~ under this section. Such obligation shall be met by service- (1) in the Indian Health Service; (2) in a program conducted under a funding agreement ~~contract~~ entered into under the Indian Self-Determination and Education Assistance Act; (3) in a program assisted under title V of this Act; or (4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.	
INDIAN HEALTH SERVICE EXTERN PROGRAMS **SEC. 107 ~~105~~**. (a) Any individual who receives a scholarship ~~grant~~ pursuant to section 105 ~~104~~ shall be entitled to employment in the Service or may be employed by program of an Indian Tribe, tribal organization or urban Indian organization, or other agencies of the Department as available, during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining fulfillment of the service obligation incurred as a condition of the scholarship grant. (b) Any individual enrolled in a course of study may be employed by the Service or by an Indian Tribe, tribal organization, or urban Indian organization during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year. (c) Any individual in a high school program authorized under section 103(a) may be employed by the Service or by a Indian Tribe, or tribal organization or urban Indian organization during any nonacademic period of the year, not to exceed 120 days during a calendar year. (d) ~~(c)~~ Any employment pursuant to this section shall be made without regard	*While extern employment for scholarship recipients is a right within the Service, it is discretionary for Tribes, tribal organizations, and urban Indian programs.*

to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be countered against any employment ceiling affecting the Service or the Department ~~of Health and Human Services~~.	
CONTINUING EDUCATION ALLOWANCES **SEC. I08 ~~106~~**. ~~(a)~~ In order to encourage~~ physicians, dentists, nurses, and other~~ health professionals, including for purposes of this section, community health representatives and emergency medical technicians, to join or continue in the Service or program of an Indian Tribe, tribal organization, or urban Indian organization and to provide their services in the rural and remote areas where a significant portion of the Indian people reside, the Secretary, subject to Section 102, acting through the Service Area, may provide allowances to health professionals employed in the Service or program of an Indian Tribe, tribal organization or urban Indian organization to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses. ~~(b) Of amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not more than $1,000,000 may be used to establish postdoctoral training programs for health professionals.~~	
COMMUNITY HEALTH REPRESENTATIVE PROGRAM **SEC. 109 ~~107~~** (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary shall maintain a Community Health Representative Program under which the Service, Indian Tribes and tribal organizations (1) provide~~s~~ for the training of Indians as community health representatives~~ paraprofessionals~~, and (2) use~~s~~ such community health representatives ~~paraprofessionals~~ in the provision of health care, health promotion, and disease prevention services to Indian communities. (b) The Secretary, acting through the Community Health Representative Program of the Service, shall– (1) provide a high standard of training for ~~paraprofessionals~~ community health representatives to ensure that the Community Health Representatives provide quality health care, health promotion, and disease prevention services to the Indian communities, served by such Program. (2) in order to provide such training, develop and maintain a curriculum that– (A) combines education in the theory of health care with supervised practical	*Authority for urban Indian organizations moved to title V.*

experience in the provision of health care, and (B) provides instruction and practical experience in health promotion and disease prevention activities with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty. (3) maintain a system which identifies the needs of Community Health Representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for continuing education, (4) maintain a system that provides close supervision of Community Health Representatives, (5) maintain a system under which the work of the Community Health Representatives is reviewed and evaluated, and (6) promote traditional health care practices of the Indian Tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.	
INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM **SEC. 110 ~~108~~**. (a)(1) Subject to section 102, the Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the "Loan Repayment Program") in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs. (2) For the purposes of this section– (A) the term "Indian health program" means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered– (i) directly by the Service; (ii) by any Indian Tribe or tribal organization pursuant to a ~~contract~~ funding agreement under– (I) The Indian Self-Determination and Educational Assistance Act, or (II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47), popularly known as the "Buy Indian" Act; or (iii) by an urban Indian organization pursuant to title V of this Act; and	

(B) the term "State" has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

(b) To be eligible to participate in the Loan Repayment Program, an individual must–

(1)(A) be enrolled–

(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

(ii) in an approved graduate training program in a health profession or

(B) have–

(i) a degree in a health profession; and
(ii) a license to practice a health profession;

(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

(C) meet the professional standards for civil service employment in the Indian Health Service; or

(D) be employed in an Indian Health program without service obligation and;

(3) submit to the Secretary an application for a contract described in subsection (f).

(c)(1) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

(2) The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

(3) The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

(d)(1) Consistent with Section 102 and paragraph (3) of this section, the Secretary, acting through the Service and in accordance with subsection (k), shall annually–

(A) identify the positions in each Indian health and program for which there is a need or a vacancy, and

(B) rank those positions in order of priority.

(2) Consistent with the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall give priority to applications made by–

(A) Indians; and

(B) Individuals recruited through the efforts of an Indian Tribe, tribal organization, or urban Indian organization.

~~(3)(A) Subject to subparagraph (B), of the total amounts appropriated for each the fiscal years authorized under this Act for loan repayment contracts under this section, subject to the priorities established by Service Area to address local shortages and needs, the Secretary shall provide that~~

~~(i) not less than 25 percent be provided to applicants who are nurses, advanced practice nurses nurse practitioners, or nurse midwives; and~~

~~(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).~~

~~(B) The requirements specified in clause or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.~~

(e)(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).

(2) The Secretary shall provide written notice to an individual within 21 days ~~promptly~~ on–

(A) The Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

(B) The Secretary's disapproving an individual's participation in such program.

(f) The written contract referred to in this section between the Secretary and an individual shall contain–

(1) an agreement under which–

(A) subject to paragraph (3), the Secretary agrees–

(i) to pay loans on behalf of the individual in accordance with the provisions of this section, and

(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a Tribe, or tribal organization , or urban Indian ~~or Indian~~ organization as provided in subparagraph (B)(iii), and

(B) subject to paragraph (3), the individual agrees–

(i) to accept loan payments on behalf of the individual;

(ii) in the case of an individual described in subsection (b)(1)–

(I) to maintain enrollment in a course of study or training described in subsection (b)(1)A) until the individual completes the course of study or training, and

(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the education institution offering such course of study or training);

(iii) to serve for a time period (hereinafter in this section referred to as the "period of obligated service") equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary.

(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the

individual under paragraph (1)(B)(iii);

(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

(g)(1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of a payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for–

(A) tuition expenses;

(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

(C) reasonable living expenses as determined by the Secretary.

(2)(A) For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination--

(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

(B) Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

~~(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary–~~

~~(A) in addition to such payments, may make payments to the individual in an amount not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and~~

~~(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.~~

(3) ~~(4)~~ The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be countered against any employment ceiling affecting the Department ~~of Health and Human Services~~.

(i) The Secretary shall conduct recruiting programs for the Loan Repayment Program and other Service manpower programs at educational institutions training health professionals or specialists identified in subsection (a).

(j) Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

(k) The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall--

(1)ensure that the staffing needs of Indian health programs administered by an Indian Tribe or tribal organization receive consideration on an equal basis with programs that are administered directly by the Service; and

(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

(l)(1) An individual who has entered into a written contract with the Secretary under this section and who–

(A) is enrolled in the final year of a course of study and who–

(i)fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

(ii)voluntarily terminates such enrollment; or

(iii)is dismissed from such educational institution before completion of such course of study; or

(B) is enrolled in a graduate training program, fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

(2) If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3Z(t-s/t)$$

In which–

(A) "A" is the amount the United States is entitled to recover,

(B) "Z" is the sum of the amounts paid under this section 50, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

(C) "t" is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

(D) "s" is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.

(3)(A) Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as

shall be specified by the Secretary.

(B) If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages–

(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

(C) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

(m)(1) Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

(4) Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

(n) The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth by Service Area--

(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession; (4) the amount of loan payments made under this section, in total and by health profession; (5) the number of scholarships that are provided under section 105 with respect to each health profession; (6) the amount of scholarship funds provided under section 105, in total and by health profession; (7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the three fiscal years beginning after the date the report is filed; and (8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by Tribes or tribal organizations, or urban Indian organizations for which recruitment or retention is difficult.	
SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND **SEC. 111 ~~108A~~**. (a) Notwithstanding section 102 of this title, there is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'LRRF' ~~'Fund'~~). The LRRF ~~Fund~~ shall consist of such amounts as may be collected from individuals under sections 105(b)(4)(A) and (B) and 110(1) for breach of contract, such funds as may be appropriated to the Fund , and such interest earned on amounts in the Fund, and all amounts collected, appropriated, or earned relative to ~~appropriated to the Fund under subsection (b). Amounts appropriated to~~ the Fund shall remain available until expended. ~~(b) For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of -~~ ~~(1) the amount collected during the preceding fiscal year by the federal Government pursuant to -~~ ~~(A) the liability of individuals under subparagraph (A) or (B) of section 104 105(b)(5) for the breach of contracts entered into under section 104 105; and~~ ~~(B) the liability of individuals under section 110(l)for the breach of contracts entered into under section 110; and~~ ~~(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.~~	*This fund has been changed into a fund where the funds collected can be withdrawn directly by the Secretary for authorized purposes. ,*

(b)(1) ~~(c)~~ Amounts in the LRRF ~~Fund and available pursuant to appropriation Acts~~ may be expended by the Secretary, subject to the provisions of Section 102, acting through the Service, to make payments to the Service or to an Indian Tribe or tribal organization administering a health care program pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act-- (A) to which a scholarship recipient under section 105 or a loan repayment program participant under section 110 ~~8~~ has been assigned to meet the obligated service requirements pursuant to sections; and (B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 105 ~~104~~ or section 110 ~~108~~. (2) An Indian Tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or recruit and employ, directly or by contract, health professionals to provide health care services. (c) ~~(d)~~(1) The Secretary of the Treasury shall invest such amounts of the LRRF ~~Fund~~ as the ~~such~~ Secretary determines are not required to meet current withdrawals from the LRRF ~~Fund~~. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. (2) Any obligation acquired by the LRRF ~~Fund~~ may be sold by the Secretary of the Treasury at the market price.	
RECRUITMENT ACTIVITIES **SEC. 112 ~~109~~**. (a) The Secretary may reimburse health professionals seeking positions with the Service, Indian Tribes, tribal organizations , or urban Indian organizations ,including unpaid student volunteers and individuals considering entering into a contract under section ~~108~~110, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment. (b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.	
TRIBAL RECRUITMENT AND RETENTION PROGRAM **SEC. 113~~110~~**. (a) The Secretary, subject to section 102 acting through the Service, shall fund~~, on a competitive basis~~, innovative demonstration projects for a period not to exceed three (3) years ~~projects~~ to enable Indian Tribes, tribal organizations and urban Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 110(a)(2)(A) ~~108(a)(2)~~).	

(b)(1) Any Indian Tribe, tribal organization or urban Indian organization may submit an application for funding of a project pursuant to this section. ~~(2) Indian Tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity with programs that are administered directly by the Service to compete for, and receive, grants under subsection (a) for such projects.~~	
ADVANCED TRAINING AND RESEARCH **SEC. 114 ~~111~~**. (a) The Secretary, acting through the Service, shall establish a demonstration project ~~program~~ to enable health professionals who have worked in an Indian health program (as defined in section 110 ~~108~~ for a substantial period of time to pursue advanced training or research areas of study for which the Secretary determines a need exists. (b) An individual who participates in a program under subsection (a) where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the program after the date of enactment of the Indian Health Amendments of 2000~~1992~~, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 110~~108~~ in the manner provided for in such subsection. (c) Health professionals from Indian Tribes and tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act, and urban Indian organizations shall be given an equal opportunity to participate in the program under subsection (a).	
NURSING PROGRAM **QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM"** **SEC. 115 ~~112~~**. (a) Notwithstanding Section 102, the Secretary, acting through the Service, shall provide grants to– (1)public or private schools of nursing, (2)tribally-controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)), and (3) nurse midwife programs, and advance practice nurse ~~practitioner~~ programs, that are provided by any tribal college accredited nursing program, in the absence of such, any other public or private institutions, for the purpose of increasing the number of	

nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

(b) Grants provided under subsection (a) may be used to–

(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses, ~~nurse practitioners~~,

(2)provide scholarships to Indian individuals enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses,

(3)provide a program that encourages nurses, nurse midwives, and advanced practice nurses ~~nurse practitioners~~ to provide, or continue to provide, health care services to Indians,

(4)provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses, ~~nurse practitioners~~, or

(5)provide any program that is designed to achieve the purpose described in subsection (a).

(c)Each applicant for funding ~~a grant~~ under subsection (a)shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

(d) In providing grants under subsection (a), the Secretary shall extend a preference to–

(1) programs that provide a preference to Indians,

(2) programs that train nurse midwives or advanced practice nurses ~~nurse practitioners~~,

(3) programs that are interdisciplinary and

(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

(e) The Secretary shall provide one of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the "Quentin N. Burdick American Indians Into Nursing Program". Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 117 ~~114~~(b) and the Quentin N. Burdick American

Indians Into Psychology Program established under section 106 ~~217~~(b). (f) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service– (A)in the Indian Health Service; (B)in a program conducted under a contract entered into under the Indian Self-Determination and Education Assistance Act; (C)in a program assisted under title V of this Act; or (D)in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians. ~~(g) Beginning with fiscal year 1993, Of the amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not less than $1,000,000 shall be used to provide grants under subsection (a) for the training of nurse midwives, nurse anesthetists, and practitioners.~~	
~~**NURSING SCHOOL CLINICS**~~ ~~**SEC. 112A**. (a) GRANTS. In addition to the authority of the Secretary under section 114112(a)(1), the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing, developing, operating, and administering clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18, United States Code.~~ ~~(b) PURPOSES. Grants provided under subsection (a) may be used to–~~ ~~(1)establish clinics, to be run and staffed by the faculty and students of a grantee school, to provide primary care services in areas in or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code)~~ ~~(2)provide clinical training, program development,faculty enhancement, and student scholarships in a manner that would benefit such clinics; and~~ ~~(3)carry out any other activities determined appropriate by the Secretary.~~ ~~(c)AMOUNT AND CONDITIONS. The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.~~	

~~(d) DESIGN.- The clinics established under this section shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.~~ ~~(e) REGULATIONS.- The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.~~ ~~(f) AUTHORIZATION TO USE AMOUNTS.- Out of amounts appropriated to carry out this title for each of the fiscal years 20001993 through 20102000 not more than $5,000,000 may be used to carry out this section~~.	
TRIBAL CULTURAL ORIENTATION ~~CULTURE AND HISTORY~~ **SEC 116 ~~113~~**. (a) The Secretary, pursuant to the requirements of section 102, acting through the Service, shall require that ~~establish a program under which~~ appropriate employees of the Service who serve ~~particular~~ Indian Tribes in each service area shall receive educational instruction in the history and culture of such Tribes and their relationship to ~~in the history of~~ the Service. (b)To the extent feasible, the program established under subsection (a) shall– (1) ~~(2)~~ be developed in consultation with the affected tribal governments, tribal organizations and urban Indian organizations, ~~and~~ (2) ~~(1)~~ be carried out through tribally-controlled community colleges (within the meaning of section 2(4) of the tribally Controlled Community College Assistance Act of 1978)and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397 (h)(2)), and (3) include instruction in ~~Native~~ American Indian studies, and (4) the use and place of traditional health care practices in the Tribe.	*Where no tribally controlled community colleges exist, such as in Alaska, Indian Tribes and tribal organization through ISDEAA funding agreements may operate the program.*
INMED PROGRAM **SEC. 117 ~~114~~**. (a) the Secretary is authorized to provide grants to ~~at least 3~~ colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the "Indians into Medicine Program" (hereinafter in this section referred to as "INMED") as a means of encouraging Indians to enter the health professions. (b) The Secretary shall provide one of the grants authorized under subsection (a) to maintain the INMED program at the University of North Dakota to be known as the Quentin N. Burdick Indian Health Programs, unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the	

purposes of this section such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106 ~~217~~(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115 ~~112~~(e).

(c)(1)The Secretary, pursuant to this Act, shall develop regulations to govern grants pursuant to ~~for the competitive awarding of the grants provided under~~ this section.

(2) Applicants for grants provided under this section shall agree to provide a program which–

(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program,

(B) incorporates a program advisory board comprised of representatives from the Tribes and Indian communities which will be served by the program,

(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions,

(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university, and

(E) to the maximum extent feasible, employs qualified Indians in the program.

~~(d) By no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit a report to the Congress on the program established under this section including recommendations for expansion or changes to the program~~.

HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES

SEC. 118 ~~115~~. (a)(1) Subject to the requirements of section 102, the Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such ~~the~~ community colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation, in the Service or in a tribal ~~clinic~~ health programs.

(2) The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

(b)(1) The Secretary, acting through the Service, shall award grants to

accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

(2) Grants may only be made under this section to a community college which–

(A) is accredited,

(B) has a relationship with ~~access~~ to a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals.

(C) has entered into an agreement with an accredited ~~and accessible~~ college or university medical school, the terms of which–

(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals, and

(ii) stipulate certifications necessary to approve internship and field placement opportunities at health program ~~service unit facilities~~ of the Service or tribal health programs ~~at tribal health facilities~~,

(D) has a qualified staff which has the appropriate certifications, and

(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1).

(F) agrees to provide for Indian preference for applicants for programs under this section.

(c) The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by–

(1) entering into agreements with such colleges for the provision of qualified personnel of the service to teach courses of study in such programs, and

(2) providing technical assistance and support to such colleges.

(d) Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who–

(1) has already received a degree or diploma in such health profession, and

(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C). (e)For purposes of this section– (1) The term "community college" means- (A) a tribally controlled ~~community~~ college, or (B) a junior or community college. (2) The term "tribally controlled ~~community~~ college" has the meaning given to <u>"tribally controlled community college"</u> ~~such term~~ by section 2(4) of the tribally Controlled Community College Assistance Act of 1978<u>, as amended.</u> (3) The term "junior or community college" has the meaning given to such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)). <u>(4) Where the requirements of subsection (b) are met, funding priority shall be provided to tribally controlled colleges in service areas where they exist.</u>	
~~**ADDITIONAL INCENTIVES FOR HEALTH PROFESSIONALS**~~ ~~**SEC. 116**. (a) The Secretary may provide the incentive special pay authorized under section 302(b) of title 37, United States Code, to civilian medical officers of the Indian Health Service who are assigned to, and serving in, positions included in the list established under subsection (b)(1) for which recruitment or retention of personnel is difficult.~~ ~~(b)(1) The Secretary shall establish and update on an annual basis a list of positions of health care professionals employed by, or assigned to, the Service, <u>Indian Tribes, and tribal and Indian organizations</u> for which recruitment or retention is difficult.~~ ~~(2)(A) The Secretary may pay a bonus to any commissioned officer or civil service employee, other than a commissioned medical officer, dental officer, optometrist, and veterinarian, who is employed in or assigned to, and serving in, a position in the Service included in the list established by the Secretary under paragraph (1).~~ ~~(B) The total amount of bonus payments made by the Secretary under this paragraph to any employee during any 1-year period shall not exceed $2,000.~~ ~~(c) The Secretary may establish programs to allow the use of flexible work schedules, and compressed work schedules, in accordance with the provisions of subchapter II of chapter 61, title 5, United States Code, for health professionals employed by, or assigned to, the Service.~~	

RETENTION BONUS

SEC. 119 ~~117~~. (a) The Secretary may pay a retention bonus to any health professional ~~physician or nurse~~ employed by, or assigned to, and serving in, the Service and Indian Tribes, tribal organizations, or urban Indian organizations either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who–

(1) is assigned to and serving in a positions ~~included in the list established under section 116(b)(1)~~ for which recruitment or retention of personnel is difficult,

(2) the Secretary determines is needed by the Service, Tribes, tribal organizations, and urban Indian organizations, and

(3) has–

(A) completed 3 years of employment with the Service, or Indian Tribe, or tribal organization, or urban Indian organization, or

(B) completed any service obligations incurred as a requirement of–

(i)any federal scholarship program, or

(ii)any federal education loan repayment program, and

(4) enters into an agreement with the Service, or Indian Tribe, or tribal organization, or urban Indian organization for continued employment for a period of not less than 1 year.

~~(b) Beginning with fiscal year 1993, not less than 25 percent of the retention bonuses awarded each year under subsection (a) shall be awarded to nurses.~~

(b) The Secretary may establish rates for the retention bonus which shall provide a for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

~~(c)The retention bonus for the entire period covered by the agreement described in subsection (a)(4) shall be paid at the beginning of the agreed upon term of service.~~

(c) Any health professional ~~physician or nurse~~ failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110~~108~~(l)(2)(B).

(d) The Secretary may pay a retention bonus to any health professional ~~physician or nurse~~ employed by an organization providing health care services to Indians pursuant to a ~~contract or~~ funding agreement under the Indian Self-Determination and Education Assistance Act if such health professional ~~physician or nurse~~ is serving in a position which the Secretary determines is--

(1) a position for which recruitment or retention is difficult; and

(2) necessary for providing health care services to Indians.

NURSING RESIDENCY PROGRAM

SEC. 120 ~~118~~. (a) The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 110~~108~~(a)(2)(A)), and have done so for a period of not less than one year, to pursue advanced training.

(b) Such program shall include a combination of education and work study in an Indian health program (as defined in section 110~~108~~(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse), or advanced degrees in nursing and public health.

(c) An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to ~~at least three times~~ the amount ~~period~~ of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 110 ~~109~~ ~~108~~ in the manner provided for in such subsection.

COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA

SEC. 121 ~~119~~. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; popularly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service--

(1) provides for the training of Alaska Natives as health aides or community health practitioners;

(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health

practitioners.

(b) The Secretary, acting through the Community Health Aide Program of the Service, shall--

(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

(2) in order to provide such training, develop a curriculum that--

(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

(C) promotes the achievement of the health status objectives specified in section 3(b);

(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

(c) Subject to Section 102, the Secretary, acting through the Service, shall develop and operate a National Community Health Aide Program based on the elements contained in this Section (a)- (b).

TRIBAL HEALTH PROGRAM ADMINISTRATION

SEC. 122 ~~121~~. Subject to Section 102, the Secretary, acting through the Service, shall, by funding agreement ~~contract~~ or otherwise, provide training for Indians

~~individuals~~ in the administration and planning of tribal health programs.	
HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROJECT ~~UNIVERSITY OF SOUTH DAKOTA PILOT PROGRAM~~ **SEC. 123 ~~122~~.** (a) Subject to section 102, the ~~The~~ Secretary may fund ~~make a grant to the School of Medicine of the University of South Dakota (hereafter in this section referred to as "USDSM") to establish a~~ pilot programs for Tribes and tribal organizations ~~an Indian reservation at one or more service units in South Dakota~~ to address the chronic shortages of health professionals ~~manpower shortage in the Aberdeen Area of the Service~~. (b) The purposes of the health profession demonstration program established herein ~~pursuant to a grant provided under subsection (a)~~ are-- (1) to provide direct clinical and practical experience at a service unit to health profession ~~medical~~ students and residents from ~~USDSM and other~~ medical schools; (2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and (3) to provide academic and scholarly opportunities for ~~physicians, physician assistants, nurse practitioners, nurses, and other allied~~ health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region. (c) The demonstration ~~pilot~~ programs established pursuant to ~~a grant provided under~~ subsection (a) shall ~~(1)~~ incorporate a program advisory board composed of representatives from the Tribes and communities in the area which will be served by the program.~~; and~~ ~~(2) shall be designated as an extension of the USDSM campus and program participants shall be under the direct supervision and instruction of qualified medical staff serving at the service unit who shall be members of the USDSM faculty.~~ ~~(d) The USDSM shall coordinate the program established pursuant to a grant provided under subsection (a) with other medical schools in the region, nursing schools, tribal community colleges, and other health professional schools.~~ ~~(e) The USDSM, in cooperation with the Service, shall develop additional professional opportunities for program participants on Indian reservations in order to improve the recruitment and retention of qualified health professionals in the Aberdeen Area of the Service.~~	
SCHOLARSHIPS **SEC. 124**. Scholarships provided to individuals pursuant to this title shall be	Such scholarships would be non-taxable under the IRS code.

deemed "qualified Scholarships" for purposes of 26 USC section 117.	
NATIONAL HEALTH SERVICE CORPS **SEC. 125 ~~812~~.** (a) The Secretary ~~of Health and Human Services~~ shall not– (1) Remove a member of the National Health Services Corps from a health program ~~facility~~ operated by the Indian Health Service or by a Tribe or tribal organization under funding agreement with the Service under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations, or (2) withdraw funding used to support such member, unless the Secretary, acting through the Service, Tribes or tribal organizations, has ensured that the Indians receiving services from such member will experience no reduction in services. (b) All service areas served by programs operated by the Service or by Tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act or by urban Indian organizations shall be designated under 24 U.S.C. 254c(a) as Health Professional Shortage areas. (c) National Health Service Corps scholars qualifying for the Commissioned Corps in the United States Public Health Service shall be exempt from FTE limitations of the National Health Service Corps and the Service when serving as a commissioned corps officer in a health program operated by an Indian Tribe or tribal organization under the Indian Self-Determination and Education Assistance Act or by urban Indian organizations.	Formerly section 812.
SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT **SEC. 126 ~~711~~.** (a) The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling. (b) Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs. (c) A contract entered into or a grant provided under this section shall be for a period of one year. Such contract or grant may be renewed for an additional one year period upon the approval of the Secretary. (d) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian Tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions,	Was section 711.

and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors. (e) The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section. (f) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section. (g) For the purposes of this section, the following definitions apply: (1)The term "educational curriculum" means one or more of the following: (A) Classroom education. (B) Clinical work experience. (C) Continuing education workshops. (~~2)The term "eligible community college" means an accredited community college that –~~ ~~(i) is located on or near an Indian reservation;~~ ~~(ii) has entered into a cooperative agreement with the governing body of such Indian reservation to carry out a demonstration project under this section; and~~ ~~(iii) has a student enrollment of not less than 10 percent Indian~~. (2) The term "tribally controlled community college" has the meaning given such term in section 2(a)(4) of the tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)). (3) The term "tribally controlled postsecondary vocational institution" has the meaning given such term in section 390(2) of the tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)). (~~h) There are authorized to be appropriated for each of the fiscal years 1996 through 2000 such sums as may be necessary to carry out the purposes of this section. Such sums shall remain available until expended~~.	*The definition of "eligible community college" was modified and moved to Definitions.*
MENTAL HEALTH **Sec 127 ~~209(d)~~ (a) TRAINING AND COMMUNITY EDUCATION PROGRAMS** (1) The Secretary and the Secretary of the Interior in consultation with ~~representatives of~~ Indian Tribes and tribal organizations shall conduct a study and	Was section 209(d) and (e).

compile a list of the types of staff positions specified in subsection (b) whose qualifications include or should include, training in the identification, prevention, education, referral or treatment of mental illness, dysfunctional or self-destructive behavior.

(2) The positions referred to in subsection (a) ~~paragraph (1)~~ are—

(A) staff positions within the Bureau of Indian Affairs, including existing positions , in the fields of –

(i)elementary and secondary education;

(ii) social services, family and child welfare;

(iii) law enforcement and judicial services; and

(iv) alcohol and substance abuse.

(B) staff positions within the Service; and

(C)staff positions similar to those identified in paragraph (b) and established and maintained by Indian Tribes, tribal organizations, and urban Indian organizations, including positions established pursuant to funding agreements pursuant to the Indian Self-determination and Education Assistance Act, and this Act.

(3)(A) The appropriate Secretary shall provide training criteria appropriate to each type of position identified in subsection (b)(1) ~~paragraph (2)(A)~~ and ensure that appropriate training has been or shall be provided to any individual in any such position. With respect to any such individual in a position identified pursuant to subsection (b)(3) ~~paragraph (2)(C)~~, the respective Secretaries shall provide appropriate training or provide funds to an Indian Tribe, tribal organization, or urban Indian organization for training of appropriate ~~such~~ individuals. In the case of ~~positions funded under~~ a funding agreement, the appropriate Secretary shall ensure that such training costs are included in the ~~contract~~ funding agreement, if necessary.

~~(B) Funds authorized to be appropriated pursuant to this section may be used to provide training authorized by this paragraph for community education programs described in paragraph (5) if a plan adopted pursuant to subsection (d) identifies individuals in employment categories other than those identified pursuant to paragraph (1), for which such training or community education is deemed necessary or desirable~~,

(4) Position specific training criteria shall be culturally relevant to Indian and Indian Tribes and shall ensure that appropriate information regarding ~~Indian healing and~~ traditional health care practices is provided.

(5) The Service shall develop and implement, or on request of an Indian Tribe or tribal organization, assist an Indian Tribe or tribal organization, to develop and

implement, a program of community education on mental illness. ~~and as determined in a plan adopted pursuant to subsection (d)~~. In carrying out this subsection, the Service shall, upon request of an Indian Tribe or tribal organization, provide technical assistance to an Indian Tribe or tribal organization to obtain and develop community educational materials on the identification, technical assistance to the Indian Tribe or tribal organization to obtain or develop materials on the identification ,prevention, referral and treatment of mental illness, dysfunctional and self-destructive behavior. **(b)(1) STAFFING.** ~~(c)~~ Within 90 days after the enactment of the Act, the Director shall develop a plan to increase under which the Service will increase the health care staff providing mental health services by at least 500 positions within five years after the enactment of this Act, with at least 200 of such positions devoted to child, adolescent, and family services. ~~Such additional staff shall be primarily assigned to the Service until unit level for services shall include outpatient, emergency, aftercare and follow-up, and prevention and educational services.~~ The allocation of such positions shall be subject to the provisions of section 102(a). (2) The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921, (25 U.S.C. 13) , popularly know as the "Snyder Act".	
~~**Sec. 209(f) STAFF RECRUITMENT AND RETENTION.** (1) The Secretary shall provide for the recruitment of the additional personnel required by subsection (f) and the retention of all Service personnel providing mental health services. In carrying out this subsection, the Secretary shall give priority to practitioners providing mental health services to children and adolescents with mental health problems.~~ ~~(2) In carrying out paragraph (1), the Secretary shall develop a program providing for~~ ~~(A) the payment of bonuses (which shall not be more favorable than those provided for under sections 116 and 117) for service in hardship posts;~~ ~~(B) the repayment of loans (for which the provisions of repayment contracts shall not be more favorable than the repayment contracts under section 108) for health professions education as a recruitment incentive; and~~ ~~(C) a system of postgraduate rotations as a retention incentive.~~ ~~(3) This subsection shall be carried out in coordination with the recruitment and retention programs under title I.~~	*The former 209(f) is deleted. The recipient of the funds can best decide the priority for its use.*
AUTHORIZATION OF APPROPRIATIONS **SEC. 128 ~~123~~.** There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2012 ~~2000~~ to carry out this title.	Specific authorizations of appropriations for each section have been deleted and replaced with this general authorization for the Title through 2012.

TITLE II – HEALTH SERVICES

Title II regarding health services has been revised throughout to clarify that Tribes and tri bal organizations can contract or compact for the health services programs which have been authorized under this Title. In addition, consultation requirements have been added in many sections. Model or pilot programs have either been made permanent or d eleted because they are completed or are

part of Tribes' recurring base funding already so are no longer necessary. Where studies were previously included on provision of particular programs such as hospice care and home- and community based services, those functions have been compiled in a new Section 213 which authorizes them and other programs required to carry out the health objectives of the Act. The term "funding" has been used throughout to replace "grants" in order to clarify that Tribes and tribal organizations can utilize contracts, compacts, grants, or other funding mechanisms, and are not limited to grants.

INDIAN HEALTH CARE IMPROVEMENT FUND

SEC. 201. (a) The Secretary is authorized to expend funds directly or under the authority of the Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended, which are appropriated under the authority of this section, ~~through the Service,~~ for the purpose of–

(1) eliminating the deficiencies in health status and resources of all Indian Tribes,

(2) eliminating backlogs in the provision of health care services to Indians,

(3) meeting the health needs of Indians in an efficient and equitable manner, ~~and~~

(4) eliminating inequities in funding for both direct care and contract health service programs, and

(~~4~~5) augmenting the ability of the Service to meet the following health service responsibilities**,** ~~either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act,~~ with respect to those Indian Tribes with the highest levels of health status deficiencies and resource deficiencies~~;~~

(A) clinical care ~~(direct and indirect)~~ including, but not limited to, inpatient care, outpatient care (including audiology, clinical eye and vision care), primary care, secondary and tertiary care, and long term care;

(B) preventive health~~;~~**,** including ~~screening~~ mammography and other cancer screening in accordance with section ~~212~~ 207;

(C) dental care ~~(direct and indirect)~~;

(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care ~~Indian~~ practitioners;

(E) emergency medical services;

(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

Subsection (a)(4) has been amended to specifically address the inequities in funding among the Areas and the differences in the benefits which can be provided by programs offered through direct care and those which are dependent on contract health services for the delivery of care.

(G) accident prevention programs;

(H) home health care,

(I) community health representatives; ~~and~~

(J) maintenance and repair; and

(K) traditional health care practices.

(b)(1) Any funds appropriated under the Authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act or the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other provision of law.

(2)(A)Funds appropriated under the authority of this section ~~may~~ shall be allocated ~~on a~~ to service units or Indian Tribes or tribal organizations ~~basis~~. The funds allocated to each Tribe, tribal organization, or service unit under this subparagraph shall be used by the Tribe, tribal organization, or service unit under this subparagraph unit to ~~reduce~~ improve the health status and reduce the resource deficiency of each Tribe served by such service unit, Tribe or tribal organization.

(B) The apportionment of funds allocated to a service unit, Tribe or tribal organization under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian Tribes in accordance with the provisions of this section and such rulemaking as is permitted under Title VIII of this Act.

(c) For purposes of this section–

(1) The term "health status and resource deficiency" means the extent to which--

(A) the health status objectives set forth in section 3(b) are not being achieved; and

(B) the Indian Tribe or tribal organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

(2) The health resources available to an Indian Tribe or tribal organization include health resources provided by the Service as well as health resources used by the Indian Tribe or tribal organization, including services and financing systems provided by any federal programs, private insurance, and programs of State or local governments.

(3) The Secretary shall establish procedures which allow any Indian Tribe or tribal organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such Tribe or tribal organization.

Congressional Report language

(d)~~(1)~~ Programs administered by any Indian Tribe or tribal organization under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

~~(2) If any funds allocated to a Tribe or service unit under the authority of this section are used for a contract entered into under the Indian Self-Determination Act, a reasonable portion of such funds may be used for health planning, training, technical assistance and other administrative support functions.~~

(e) By no later than the date that is 3 years after the date of enactment of ~~the Indian Health Amendments of 1992~~ this Act, the Secretary shall submit to the Congress the current health status and resource deficiency report of the Service for each Indian Tribe or service unit, including newly recognized or acknowledged Indian Tribes. Such report shall set out–

(1) the methodology then in use by the Service for determining tribal health status and resource deficiencies, as well as the most recent application of that methodology;

(2) the extent of the health status and resource deficiency of each Indian Tribe served by the Service;

(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian Tribes served by the Service; and

(4) an estimate of–

(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian Tribe, or comparable entity.

(B) the number of Indians eligible for health services in each service unit or Indian Tribe or tribal organization; and

(C) the number of Indians using the Service resources made available to each service unit or Indian Tribe or tribal organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

(f) Funds appropriated under authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

(g) Nothing in this section is intended to diminish the primary responsibility of

should state that the backlog and number turned away should be from the data for the prior three years.

the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve ~~parity~~ equity among Indian Tribes and tribal organizations. (h) Any funds appropriated under the authority of this section shall be designated as the "Indian Health Care Improvement Fund".	
~~[NOTE: Section 201(b) of P.L. 102-573 provides that the amendments made to subsection 201(a) through (d) of the Indian Health Care Improvement Act shall take efffect 3 years after date of enactment (October 29, 1995). Amendments to subsection (e) take effect on the date of enactment (October 29, 1992).~~	*This commentary can be deleted because it is no longer timely.*
CATASTROPHIC HEALTH EMERGENCY FUNDS **SEC. 202.** (a)(1) There is hereby established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as "CHEF" ~~the "Fund"~~) consisting of– (A) the amounts deposited under subsection (d), and (B) the amounts appropriated under subsection (e) to CHEF ~~the Fund~~ under this section. (2) CHEF ~~the Fund~~ shall be administered by the Secretary~~, acting through the central office of the Service,~~ solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service. (3) CHEF ~~the Fund~~ shall ~~not~~ be equitably allocated, apportioned or delegated on an service unit, Area Office~~, or any other~~ basis, based upon a formula developed in consultation with the Indian Tribes and tribal organizations through negotiated rulemaking under Title VIII of this Act, which formula shall take into account the added needs of service areas which are contract health service dependent. (4) No part of CHEF ~~the Fund~~ or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination Act, and shall be administered by the Area Offices based upon priorities determined by the Indian Tribes and tribal organizations within each Area including consideration of the needs of Indian Tribes and tribal organizations which are contract health service-dependent. (b) The Secretary shall, through the negotiated rulemaking process under Title VIII of this Act, promulgat~~ion of~~ regulations consistent with the provisions of this section– (1) establish a definition of disasters and catastrophic illnesses for which the cost of the treatment provided under contract would qualify for payment from the Fund;	*This section has been revised to divide the CHEF fund among the Area Offices in order to insure that all Tribes have equal access to it and to clarify that Tribes and tribal organizations may receive reimbursements. A revision previously agreed to as Sec. 202(b)(1)(C) and disussed by the Steering Committee as a whole which provided that Areas which are CHS dependent have access to CHEF funds at a lower threshold (not more than half of the amount set for other areas) has been deleted in favor of dividing the CHEF fund by Area Office.* *The level in (b)(2)(A) will change*

(2) provide that a service unit, Indian Tribe, or tribal organization shall not be eligible for reimbursement for the cost of treatment from CHEF ~~the Fund~~ until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at– (A) the 1999 level of $19,000 ~~for 1993, not less than $15,000 or not more than $25,000; and~~ (B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;"; and **[NOTE: Section 202(b) of P.L. 102-573 provides that the amendments made to section 202(b)(2) of the Indian Health Care Improvement Act shall take effect on January 1, 1993.]** (3) establish a procedure for the reimbursement of the portion of the costs incurred by– (A) service units, Indian Tribes or tribal organizations, or facilities of the Service, or (B) whenever otherwise authorized by the Service, non-Service facilities or providers, in rendering treatment that exceeds such threshold cost; (4) establish a procedure for payment from CHEF ~~the Fund~~ in cases in which the exigencies of the medial circumstances warrant treatment prior to the authorization of such treatment by the Service; and (5) establish a procedure that will ensure that no payment shall be made from CHEF ~~the Fund~~ to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other federal, State, local, or private source of reimbursement for which the patient is eligible. (c) Amounts appropriated to CHEF ~~the Fund~~ under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other law. (d) There shall be deposited into CHEF ~~the Fund~~ all reimbursements to which the Service is entitled from any federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from CHEF ~~the Fund~~.	*from time to time based on the calculations required by (B).*
HEALTH PROMOTION AND DISEASE PREVENTION SERVICES	*P.L. 100-713 contained a free-standing provision affecting*

Sec. 203. (a) The Congress finds that health promotion and disease prevention activities will– (1) improve the health and well-being of Indians, and (2) reduce the expenses for health ~~medical~~ care of Indians.}	*section 203. This language has been incorporated into section 203 as a new (a).*
(b~~a~~) The Secretary, acting through the Service and through Indian Tribes and tribal organizations, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objectives set forth in section 3(b). (c) For the purposes of this section, health promotion and disease prevention mean the following: (1) "Health promotion" means fostering social, economic, environmental, and personal factors conducive to health including raising people's awareness about health matters and enabling them to cope with health problems by increasing their knowledge and providing them with valid information; encouraging adequate and appropriate diet, exercise, and enough sleep; promoting education and work in conformity with physical and mental capacity; making available suitable housing, safe water, and sanitary facilities; improving the physical economic, cultural, psychological, and social environment; and promoting adequate opportunity for spiritual, religious, and traditional practices; and adequate and appropriate programs including, but not limited to: (A) abuse prevention (mental and physical); (B) community health; (C) community safety; (D) consumer health education; (E) diet and nutrition; (F) disease prevention (communicable, immunizations, HIV/AIDS); (G) environmental health; (H) exercise and physical fitness; (I) fetal alcohol disorders; (J) first aid and CPR education; (K) human growth and development; (L) injury prevention and personal safety; (M) mental health (emotional, self-worth); (N) personal health and wellness practices; (O) personal capacity building; (P) prenatal, pregnancy, and infant care; (Q) psychological well being; (R) reproductive health (family planning); (S) safe and adequate water; (T) safe housing; (U) safe work environments; (V) stress control;	*This section has been revised to clarify that Tribes and tribal organizations shall provide HPDP services and to require tribal input. The section has also been revised to include definitions of health promotion and disease prevention. These are new definitions that repeal and reenact subsections 4(k) and (l).*

(W) substance abuse;
(X) sanitary facilities;
(Y) tobacco use cessation and reduction;
(Z) violence prevention; and
(AA) such other activities identified by the Indian Health Service, an Indian Tribe or tribal organization, to promote achievement of any of the objectives described in section 3(b) of this Act.

(2) "Disease Prevention" is the reduction, limitation, and prevention of disease and its complications; and reduction in the consequences of such diseases including but not limited to–
(A) controlling–

(i) development of diabetes;
(ii) high blood pressure;
(iii) infectious agents;
(iv) injuries;
(v) occupational hazards and disabilities;
(vi) sexually transmittable diseases;
(vii) toxic agents; and

(B) providing–
(i) fluoridation of water; and
(ii) immunizations.

(d) ~~(b)~~ The Secretary, after obtaining input from the affected Indian Tribes and tribal organizations, shall submit to the President for inclusion in each statement which is required to be submitted to the Congress under section 801 an evaluation of–

(1) the health promotion and disease prevention needs of Indians,

(2) the health promotion and disease prevention activities which would best meet such needs,

(3) the internal capacity of the Service to meet such needs, and

(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

DIABETES PREVENTION, TREATMENT, AND CONTROL

Authority for dialysis programs has been added since a number of Tribes are already operating these programs and because Tribes believe they are necessary.

SEC. 204. (a) The Secretary, in consultation with the Indian Tribes and tribal organizations, shall determine–

(1) by Tribe, tribal organization, and by service unit of the Service, the

incidence of, and the types of complications resulting from, diabetes among Indians; and

(2) based on paragraph (1), the measures (including patient education) each Service unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among Indian Tribes within that service unit.

(b) The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by a Tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act.

(c)~~(1)~~ The Secretary shall continue to ~~maintain~~ fund through fiscal year ~~2000~~ 2012 each model diabetes project in existence on the date of enactment of the Indian Health Amendments of ~~1992~~ 2000 and any such other diabetes programs operated by the Secretary or Indian Tribes and tribal organizations and any additional programs added to meet existing needs. Indian Tribes and tribal organizations shall receive recurring funding for the diabetes programs which they operate pursuant to this section.

~~(A) at the Claremore Indian Hospital in Oklahoma;~~

~~(B) at the Fort Totten Health Center in North Dakota;~~

~~(C) at the Sacaton Indian Hospital in Arizona;~~

~~(D) at the Winnebago Indian Hospital in Nebraska;~~

~~(E) at the Albuquerque Indian Hospital in New Mexico;~~

~~(F) at the Perry, Princeton, and Old Town Health Centers in Maine; and~~

~~(G) at the Bellingham Health Center in Washington. ;~~

~~(H) at the Fort Berthold Reservation;~~

~~(I) at the Navajo Reservation;~~

~~(J) at the Papago Reservation;~~

~~(K) at the Zuni Reservation; or~~

~~(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.~~

~~(2) The Secretary may establish new model diabetes projects under this~~

~~section taking into consideration applications received under this section from all service areas, except that the Secretary may not establish a greater number of projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).~~ (d) The Secretary shall provide funding through the Service, Indian Tribes and tribal organizations to establish dialysis programs, including funding to purchase dialysis equipment and provide necessary staffing	
(e~~d~~) The Secretary shall, to the extent funding is available, – (1) ~~employ~~ in each area office of the Service, consult with Indian Tribes and tribal organizations regarding programs ~~at least one diabetes control officer who shall coordinate and manage on a full-time basis activities within that area office~~ for the prevention, treatment, and control of diabetes. (2) establish in each area office of the Service a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area; and (3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to all other area offices~~; and~~. ~~(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.~~	*Although Diabetes control officers have been removed from the mandatory provisions of the Act, each Area may retain diabetes control officers at their discretion.*
~~**HOSPICE CARE FEASIBILITY STUDY**~~ ~~**SEC. 205.** (a) The Secretary, acting through the Service and in consultation with representatives of Indian Tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study~~ ~~(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and~~ ~~(2) to determine the most efficient and effective means of furnishing such care.~~ ~~(b) Such study shall~~ ~~(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;~~ ~~(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution such individuals;~~ ~~(3) determine the most appropriate means to facilitate the participation of Indian Tribes and tribal organizations in providing hospice care;~~	*This section has been deleted. Hospice (and Long-term care) has been added to the list of services in Sec. 213 rather than including these subjects in a special study.* *The definitions contained in this deleted section have been added to Sec. 213.*

~~(4) identify and evaluate various means for providing hospice care, including~~

~~(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice established by the Secretary at such hospital; and~~

~~(B) the provision of such care by a community based hospice program under contract to the Service; and~~

~~(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.~~

~~(c) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing~~

~~(1) a detailed description of the study conducted pursuant to this section; and~~

~~(2) a discussion of the findings and conclusions of such study.~~

~~(d~~ b ~~) For the purposes of this section~~

~~(1) the term "terminally ill" means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less; and~~

~~(2) the term "hospice program" means any program which satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)); and~~

~~(3) the term "hospice care" means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)).~~

SHARED SERVICES ~~DEMONSTRATION PROJECT~~

Sec. 205 ~~822~~. (a) The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into funding agreements or other arrangements ~~contracts~~ with Indian Tribes or tribal organizations ~~to establish not more than 6 shared services demonstration projects~~ for the delivery of long-term care and similar services to Indians. Such projects shall provide for the sharing of staff or other services between a Service or tribal facility and a ~~nursing~~ long-term care or other similar facility owned and operated (directly or ~~by contract~~ through funding agreement) by such Indian Tribe or tribal organization.

(b) A funding agreement ~~contract~~ or other arrangement entered into pursuant to subsection (a)--

(1) may, at the request of the Indian Tribe or tribal organization, delegate to such Tribe or tribal organization such powers of supervision and control over Service

This section has been moved from Title VIII and has been changed from a demonstration project to a regular program to allow for delivery of long term care in facilities sharing staff or other services. The form of agreement used by the Tribe or tribal organization is not limited to funding agreements under the ISDEAA in order to allow Tribes who are not contracting or compacting under that act to access these funds, through allowing Tribes, at the tribal option, to choose the form of agreement.

employees as the Secretary deems necessary to carry out the purposes of this section; (2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the tribal facility be allocated proportionately between the Service and the Tribe or tribal organization; and (3) may authorize such Tribe or tribal organization to construct, renovate, or expand a ~~nursing~~ long-term care or other similar facility (including the construction of a facility attached to a Service facility)~~, except that no funds appropriated for the Service shall be obligated or expended for such purpose~~. ~~(c) To be eligible for a contract under this section, a Tribe or tribal organization, shall, as of the date of the enactment of this Act –~~ ~~(1) own and operate (directly or by contract) a nursing facility;~~ ~~(2) have entered into an agreement with a consultant to develop a plan for meeting the long-term needs of the Tribe or tribal organization; or~~ ~~(3) have adopted a tribal resolution providing for the construction of a nursing facility.~~ ~~(d)Any nursing facility for which a contract is entered into under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.~~ ~~(e~~c) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section. (d) The Secretary shall encourage the use for long-term or similar care of existing facilities that are under-utilized or allow the use of swing beds for such purposes. ~~(f)The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the findings and conclusions derived from the demonstration projects conducted under this section.~~	
HEALTH SERVICES RESEARCH **SEC. 206 ~~208~~.** The Secretary shall make funding available ~~Of the amounts appropriated for the Service in any fiscal year, other than amounts made available for the Indian Health Care Improvement Fund, not less than $200,000 shall be available only~~ for research to further the performance of the health service responsibilities of the Service, Indian Tribes, and tribal organizations and shall coordinate the activities of other Agencies within DHHS to address these research needs. The funding shall be divided equitably among the Area Offices and then each Area Office shall award the funds competitively within that Area. Indian Tribes and tribal organizations ~~contracting~~	*This section has been revised to clarify that Tribes and tribal organizations are eligible to receive research money and that the funds may be used both for clinical and non-clinical research and to provide that the funding will be divided by Area Office and awarded competitively within the Area.*

~~with~~ receiving funding from the Service under the authority of the Indian Self-Determination and Education Assistance Act shall be given ~~under~~ an equal opportunity to compete for, and receive, research funds under this section. This funding may be used for both clinical and non-clinical research by Indian Tribes and tribal organizations and shall be distributed to the Area Offices which may make grants from these funds within each Area.	
~~COVERAGE OF SCREENING~~ MAMMOGRAPHY AND OTHER CANCER SCREENING **SEC. 207 ~~212~~.** The Secretary, through the Service or through Indian Tribes or tribal organizations, shall provide for screening, as follows: (a) mammography (as defined in section 1861(jj) of the Social Security Act) for Indian ~~and urban Indian~~ women ~~35 years of age or older~~ at a frequency, ~~determined by the Secretary (in consultation with the Director of the National Cancer Institute),~~ appropriate to such women under national standards, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act; and. (b) other cancer screening meeting national standards. ~~There is authorized to carry out these functions such funds as are required each year.~~	*This section has been broadened to cover not only mammography but all cancer screening, including that needed by men.*
PATIENT TRAVEL COSTS **SEC. 208 ~~213~~.** (a) The Secretary, acting through the Service, Indian Tribes and tribal organizations shall provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through funding agreements ~~contracts~~ entered into pursuant to the Indian Self-Determination and Education Assistance Act) under this Act– (1) emergency air transportation; and ~~(2)~~ non-emergency air transportation where ground transportation is infeasible; (2) transportation by private vehicle, specially equipped vehicle and ambulance; and (3) transportation by such other means as may be available and required when air or motor vehicle transportation is not available ~~(i.e., boat)~~. ~~(b) There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999 and 2000.~~	*Patient travel costs authorized have been expanded to include costs for escorts, and costs of travel by not only air, but ambulance, automobile, and boat.*
EPIDEMIOLOGY CENTERS	*This section was revised to include requirements that one*

SEC. 209 ~~214~~. (a)(1) In addition to those centers already established at the time of enactment of this Act (including those for which funding is currently being provided in funding agreements under the Indian Self-Determination and Education Assistance Act), within 180 days of enactment of this Act, the Secretary shall establish and fund an epidemiology center in each Service Area which does not yet have one to carry out the functions described in paragraph (~~3~~2). Any new centers so established may be operated by Indian Tribes or tribal organizations pursuant to funding agreements under the Indian Self-Determination and Education Assistance Act, but such funding may not be divisible.

~~(2) To assist such centers in carrying out such functions, the Secretary shall preform the following:~~

~~(A) In consultation with the Centers for Disease and Indian Tribes, develop sets of data (which to the extent practicable, shall be consistent with the uniform data sets used by the States with respect to the year 2000 health objectives) for uniformly defining health status for purposes of the objectives specified in section 3(b). Such sets shall consist of one or more categories of information. The Secretary shall develop formats for the uniform collecting and reporting of information on such categories.~~

~~(B) Establish and maintain a system for monitoring the progress made toward meeting each of the health status objectives described in section 3(b)~~

(~~3~~2) In consultation with and upon the request of Indian Tribes, tribal organizations and urban Indian organizations ~~communities~~, each area epidemiology center established under this subsection shall, with respect to such area carry out–

(A) collect data relating to, and monitor progress made toward meeting, each of the health status objectives ~~described in section 3(b) using the data sets and monitoring system developed by the Secretary pursuant to paragraph (2)~~ of IHS, the Indian Tribes, tribal organizations, and urban Indian organizations in the Area;

(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

(C) assist Indian Tribes, tribal organizations, and urban Indian organizations ~~communities~~ in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

center be established in each Area within 180 days from passage of this Act. The Epi centers functions have been revised to require more tribal input and to allow the Tribes and tribal organizations to contract/compact for some or all of their functions as is currently being done in some Areas, except that, unless already divided in funding agreements at the time of enactment of this Act, the epi centers are not to be divisible in the future.

Add Report language that existing epi centers should not lose funding to provide funding for the areas which do not yet have epi centers.

~~(F) work cooperatively with tribal providers of health and social services in order to avoid duplication of existing services; and~~

(F~~G~~) provide requested technical assistance to Indian Tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

(G) provide disease surveillance and assist Indian Tribes, tribal organizations, and urban Indian organizations to promote public health.,

Although subsection (a)(4) allowing contracting under the ISDA has been deleted, the Report language should clarify that these funds remain subject to the Indian Self-Determination Act and that there is no intention to change that by removing this language here, subject only to newly imposed divisibility restrictions which apply only to epi centers which have not previously been contracted or compacted.

~~(4) Epidemiology centers established under this subsection shall be subject to the provisions of the Indian Self-Determination (25 U.S.C. 450f at seq.).~~

(3~~5~~) The director of the Centers for Disease Control shall provide technical assistance to the centers in carrying out the requirements of this subsection.

~~(6) The Service shall assign one epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance necessary to carry out this subsection.~~

(b)(1) The Secretary may make ~~grants~~ funding available to Indian Tribes, tribal organizations, and ~~eligible intertribal consortia or~~ urban Indian organizations to conduct epidemiological studies of Indian communities.

~~(2) An intertribal consortia or Indian organization is eligible to receive a grant under this subsection if~~

~~(A) it is incorporated for the primary purpose of improving Indian health; and~~

~~(B) it is representative of the Tribes or urban Indian communities in which it is located.~~

~~(3) An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.~~

~~(4) Applicants for grants under this subsection shall~~

~~(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);~~

~~(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and~~

~~(C) demonstrate cooperation from Indian Tribes or urban Indian~~

~~organizations in the area to be served.~~ ~~A grant awarded under paragraph (1)_ may be used to~~ ~~(A) carry out the functions described in subsection (a)(3);~~ ~~(B) provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and~~ ~~(C) provide, in collaboration with Tribes and urban Indian communities, the Service with information regarding ways to improve the health status of Indian people.~~ ~~(6) There are authorized to be appropriated to carry out the purposes of this subsection not more than $12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.~~	
COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS **SEC. 210 ~~215~~.** (a) The Secretary, acting through the Service ~~and in consultation with the Secretary of the Interior, may~~ shall ~~award grants~~ provide funding to Indian Tribes, tribal organizations and urban Indian organizations to develop comprehensive school health education programs for children from preschool through grade 12 in schools for the benefit of Indian and urban Indian children ~~located on Indian reservations~~. (b) ~~Grants awarded~~ Funding provided under this section may be used for purposes which may include, but are not limited to the following ~~to~~ (1) develop and implement health education curricula both for regular school programs and after school programs; (2) train teachers in comprehensive school health education curricula; (3) integrate school-based, community-based, and other public and private health promotion efforts; (4) encourage healthy, tobacco-free school environments; (5) coordinate school-based health programs with existing services and programs available in the community; (6) develop school programs on nutrition education, personal health, oral health, and fitness;	*This section was revised to emphasize implementation by Tribes and tribal organizations, and to clarify that these programs are for Indian children, not just on reservation since some Tribes use off-reservation schools, and there are no reservations in Alaska but villages instead.*

(7) develop mental health wellness programs;

(8) develop chronic disease prevention programs;

(9) develop substance abuse prevention programs;

(10) develop injury ~~accident~~ prevention and safety education programs;

(11) develop activities for the prevention and control of communicable diseases; ~~and~~

(12) develop community and environmental health education programs that include traditional health care practitioners;

(13) violence prevention; and

(14) such other health issues as are appropriate.

(c) Upon request, ~~T~~the Secretary shall provide technical assistance to Indian Tribes tribal organizations, and urban Indian organizations in the development of comprehensive health education plans, and the dissemination of comprehensive health education materials and information on existing health programs and resources.

(d) The Secretary in consultation with Indian Tribes, tribal organizations and urban Indian organizations, shall establish criteria for the review and approval of applications for ~~grants made~~ funding provided pursuant to this section.

~~(e) Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of~~

~~(1) the number of preschools, elementary schools, and secondary schools served;~~

~~(2) the number of students served;~~

~~(3) any new curricula established with funds provided under this section;~~

~~(4) the number of teachers trained in the health curricula; and~~

~~(5) the involvement of parents, members of the community, the community health workers in programs established with funds provided under this section.~~

(~~f~~e) (1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary and the affected Indian Tribes and tribal

organizations shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs. (2) Such programs shall include– (A) school programs on nutrition education, personal health, oral health, and fitness; (B) mental health wellness programs; (C) chronic disease prevention programs; (D) substance abuse prevention programs; (E) injury ~~accident~~ prevention and safety education programs; and (F) activities for the prevention and control of communicable diseases (3) The Secretary of the Interior shall– (A) provide training to teachers in comprehensive school health education curricula; (B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and (C) encourage healthy, tobacco-free school environments. ~~(g) There are authorized to be appropriated to carry out this section 415,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.~~	
INDIAN YOUTH ~~GRANT~~ PROGRAM **SEC. 211 ~~216.~~** (a) The Secretary, acting through the Service, is authorized to provide funding ~~make grants~~ to Indian Tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and urban Indian preadolescent and adolescent youths. (b) (1) funds made available under this section may be used to– (A) develop prevention and treatments programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and ~~T~~ traditional health care practitioners ~~healers~~; and	*This was changed from a grant program to a funding program so that Tribes could access these funds under the ISDEAA or through grants or such other mechanisms as they believe appropriate.*

(B) develop and provide community training and education. (2) Funds made available under this section may not be used to provide services described in section ~~209(m)~~ 707(c). (c) The Secretary shall– (1) disseminate to Indian Tribes, tribal organizations and urban Indian organizations information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents; (2) encourage the implementation of such models; and (3) at the request of an Indian Tribe, tribal organization, or urban Indian organization, provide technical assistance in the implementation of such models. (d) The Secretary, in consultation with Indian Tribes, tribal organizations and urban Indian organizations, shall establish criteria for the review and approval of applications or proposals under this section. ~~(e) There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.~~	
PREVENTION, CONTROL AND ELIMINATION OF ~~TUBERCULOSIS~~ COMMUNICABLE AND INFECTIOUS DISEASES **SEC. 212 ~~218~~.** (a) The Secretary, acting through the Service after consultation with Indian Tribes, tribal organizations, and urban Indian organizations, and the Centers for Disease Control and Prevention, may make ~~grants~~ funding available to Indian Tribes and tribal organizations for– (1) projects for the prevention, control and elimination of communicable and infectious diseases including, but not limited to, tuberculosis, hepatitis, HIV, respiratory syncitial virus, hanta virus, sexually transmitted diseases, and H. Pylori; (2) public information and education programs for the prevention, control, and elimination of communicable and infectious diseases ~~tuberculosis~~; and (3) education, training and clinical skills improvement activities in the prevention, control, and elimination of ~~tuberculosis~~ communicable and infectious diseases for health professionals, including allied health professionals. (b) The Secretary may ~~make a grant~~ provide funding under subsection (a) only if an application or proposal for ~~the grant~~ funding is submitted to the Secretary.	*This section has been expanded to include all communicable and infectious diseases, not just tuberculosis and to require consultation with Tribes, tribal organizations and Urban Indian organizations.*

(c) ~~to be eligible for grant under subsection (a), and applicant must provide assurances satisfactory to the Secretary that~~ Indian Tribes and tribal organizations receiving funding under this section are encouraged to coordinate their activities with the Centers for Disease Control, and State and local health agencies.

~~(1) the applicant will coordinate its activities for prevention, control and elimination of tuberculosis with activities of the Centers for Disease Control, and State and local health agencies; and~~

~~(2) the applicant will submit to the Secretary an annual report on its activities for the prevention, control, and elimination of tuberculosis.~~

(d) In carrying out this section, the Secretary–

~~(1) shall establish criteria for the review and approval of applications for grants under subsection (a), including requirement of public health qualifications of applicants;~~

~~(2) shall, subject to available appropriations, make at least one grant under subsection (a) with each area office;~~

(~~3~~1) may, at the request of an Indian Tribe or tribal organization, provide technical assistance; and

(~~4~~2) shall prepare and submit a report to the Congress ~~Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House and the Select Committee on Indian Affairs of the Senate not later than February 1, 1994, and~~ biennially ~~thereafter~~, on the use of funds under this section and on the progress made toward the prevention, control, and elimination of ~~tuberculosis~~ communicable and infectious diseases among Indians ~~Tribes~~ and urban Indians ~~tribal organizations~~.

~~(e) The Secretary may, at the request of a recipient of a grant under subsection (a), reduce the amount of such grant by~~

~~(1) the fair market value of any supplies or equipment furnished the grant recipient; and~~

~~(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,~~

~~when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection 9a) is made. The amount by which any such grant is so reduced shall be available for~~

~~payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.~~	
AUTHORITY FOR PROVISION OF OTHER SERVICES **Sec. 213.** (a) The Secretary, acting through the Service, Tribes, and tribal organizations, may provide funding under this Act to meet the objectives set forth in Section 3 of this Act through health care related services and programs not otherwise described in this Act, which shall include, but not be limited to: (1) hospice care and assisted living; (2) long-term health care; (3) home- and community-based services; (4) public health functions; and (5) traditional health care practices. (b) At the discretion of the Service, Indian Tribes, or tribal organizations, services provided for hospice care, home health care (under Sec. 201 of this Act), home- and community- based care, assisted living, and long term care may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to a Tribe or tribal organization. (c) For the purposes of this Section, the following definitions shall apply: (1) The term "hospice care" means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which a Tribe or tribal organization determines are necessary and appropriate to provide in furtherance of this care. (2)The term "home- and community-based services" means one or more of the following: (A) Homemaker/home health aide services; (B) Chore services; (C) Personal care services; (D) Nursing care services provided outside of a nursing facility by, or under the	*This specific care provided for in this section has been moved from a previous draft of Section 201 in order to reestablish Sec. 201 as the Indian Health Care Improvement Fund, rather than to make it a more general authorizing provision. Most of the programs included here were previously demonstration projects and are being carried out by various Tribes and tribal organizations.* *Section (b) has been placed here and expanded to all types of long-term type care which Tribes are or may in the future be providing, including that needed by those who experience developmental and functional disabilities. This language was moved from Section 821 (e) which has been deleted and the final sentence has been added.* . *Definitions have been added to this section.* *The definition of hospice care is taken from the original Sec. 205(d) which was a demonstration project.* *This definition is taken from Sec. 821 (h)(1).*

supervision of, a registered nurse; (E~~F~~) Training for family members ~~in managing a functionally disabled individual~~; (F~~G~~) Adult day care; and (G~~H~~) Such other home- and community-based services as the Secretary or a Tribe or tribal organization may approve. ~~(3) The term "functionally disabled" means an individual who is determined to required home- and community-based services based on an assessment that uses criteria (including, at the discretion of the Tribe or tribal organization, activities of daily living) developed by the Tribe or tribal organization.~~ (3) The term "public health functions" means the provision of public health related programs, functions, and services including, but not limited to, assessment, assurance, and policy development which Indian Tribes and tribal organizations are authorized and encouraged, in those circumstances where it meets their needs, to do by forming collaborative relationships with all levels of local, state, and federal government.	*This definition is taken from Sec. 821 (h)(2).* *This is a new definition.*
~~OFFICE OF~~ INDIAN WOMEN'S HEALTH CARE **SEC. 214 ~~223~~.** ~~There is established within the Service an Office of Indian Women's Health Care to oversee efforts of the Service~~ The Secretary, acting through the Service, Indian Tribes, and tribal organizations and urban Indian organizations, shall provide funding to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.	*This section has been revised to eliminate the Office of Indian Women's health and instead to provide funding for Tribes to operate programs for Indian women's health.*
ENVIRONMENTAL & NUCLEAR ~~RESOURCE DEVELOPMENT~~ HEALTH HAZARDS **Sec. 215 ~~807~~.** (a) The Secretary and the Service shall conduct, in conjunction with other appropriate federal agencies and in consultation with concerned Indian Tribes and tribal organizations, ~~a~~ study~~ies~~ and ongoing monitoring programs to determine trends in ~~of~~ the health hazards to Indian miners and to Indians on or near Indian reservations and in Indian communities as a result environmental hazards which may result in chronic or life-threatening health problems, which hazards include, but are not limited to , ~~of~~ nuclear resource development, petroleum contamination, contamination of water source and/or of the food chain, etc. Such study shall include- (1) an evaluation of the nature and extent of ~~nuclear resource development related~~ health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems; (2) an analysis of the potential effect of ongoing and future ~~nuclear~~ environmental resource development on or near Indian reservations and communities including the cumulative effect over time on health;	*This section has been expanded to cover all environmental hazards, not just nuclear resource development, which threaten the health of Indians and to require ongoing monitoring and study of the problems.*

(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems including, but not limited to, uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal; oil and gas production or transportation on or near Indian reservations or communities; and other development that could affect the health of Indians and their water supply and food chain.

(4) a summary of any findings and recommendations provided in federal and State studies, reports, investigations, and inspections during the five years prior to the date of the enactment of this section that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

(5) the efforts that have been made by federal and State agencies and ~~mining and milling~~ resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such ~~nuclear resource~~ development.

(b) Upon completion of such study the Secretary and the Service shall take into account the results of such study and, in consultation with Indian Tribes and tribal organizations, develop ~~a~~ health care plans to address the health problems studied under subsection (a). The plans shall include–

(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other ~~nuclear development~~ activities that have had or could have a serious impact upon the health of such individuals; and

(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

(c) The Secretary and the Service shall submit to Congress the study prepared under subsection (a) no later than the date eighteen months after the date of enactment of this section. The health care plan prepared under subsection (b) shall be submitted in a report no later than the date one year after the date that the study prepared under subsection (a) is submitted to Congress. Such report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

(d)(1) There is established an Intergovernmental Task Force to be composed of the following individuals (or their designees): The Secretary of Energy, the Administrator of the Environmental Protection Agency, the Director of the Bureau of Mines, the Assistant Secretary for Occupational Safety and Health, and the Secretary of

the Interior. (2) The Task Force shall identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community and enter into activities to correct existing health hazards and insure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced. (3) The Secretary shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force. (e) In the case of any Indian who– (1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work related illness or condition; (2) is eligible to receive diagnosis and treatment services from a Service facility; and (3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard, the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.	
ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA **Sec. 216 ~~808~~.** (a) For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, ~~2000~~ 2012, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona. (b) The Service shall not curtail any health care services provided to Indians residing on federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).	
CALIFORNIA CONTRACT HEALTH SERVICES ~~DEMONSTRATION~~ PROGRAM	*This section has been revised to*

SEC. 217 ~~211~~. (a) The Secretary ~~shall establish a demonstration~~ is authorized to fund a program ~~to evaluate the use of~~ utilizing California Rural Indian Health Board as a contract care intermediary to improve the accessibility of health services to California Indians.

(b)(1) ~~In establishing such program, t~~The Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred pursuant to this section, ~~during the period of the demonstration program,~~ in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 218 ~~810~~ with respect to high-cost contract care cases.

(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

(3) No payment may be made for treatment provided ~~under the demonstration program~~ hereunder to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

(c) There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, s least one half of whom are not affiliated with the California Rural Indian Health Board.

~~(d) The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.~~

~~(e) Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on~~

~~(1) access to needed health services;~~

~~(2) waiting periods for receiving such services;~~

~~(3) the efficient management of high-cost contract care cases.~~

~~(f) For the purposes of this section, the term "high-cost contract care cases" means those cases in which the cost of the medical treatment provided to an individual~~

~~(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 202, except that the cost of such treatment~~

make the authorization for this program permanent.

~~does not meet the threshold cost requirement established pursuant to section 202(b)(2); and~~ ~~(2) exceeds $1,000.~~ ~~(g) There are authorized to be appropriated for each of the fiscal years 1996 through 2000 such sums as be necessary to carry out the purposes of this section.~~	
CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA **Sec. 218 ~~810~~.** The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State; provided, however, that any of the counties herein may be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties .	*There is concern that there may be Tribes petitioning for federal acknowledgment in some of these counties which are specifically excluded from the CHSDA, and once federally recognized, the Tribes should be eligible for CHS funding.*
CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA **Sec. 219 ~~815~~.** (a) The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of montana. (b) Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.	
~~CONTRACT HEALTH FACILITIES~~ PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS **Sec. 220 ~~811~~.** The Service shall provide funds for health care programs and facilities operated by Indian Tribes and tribal organizations under ~~contracts~~ funding agreements with the Service entered into under the Indian Self-Determination and Education Assistance Act- ~~(1) for the maintenance and repair of clinics owned or leased by such Tribes or tribal organizations,~~ ~~(2) for employee training,~~ ~~(3) for cost-of-living increases for employees, and~~ ~~(4) for any other expenses relating to the provision of health services,~~	*This section was added prior to the 1994 Amendments to the ISDEAA which clarified that the specific items included herein are part of the funds available to Tribes. This section has been revised to simply reiterate that all funding is available to Tribes and tribal organizations to the same extent as to the Service deleting the references to specific portions of the program.* *It is important that emergency medical equipment and vehicles be included in this section.*

on the same basis as such funds are provided to programs and facilities operated directly by the Service.	
LICENSING **Sec. 221.** Health care professionals employed by Indian Tribes and tribal organizations to carry out agreements under the Indian Self-Determination and Education Assistance Act, shall, if licensed in any other State, be exempt from the licensing requirements of the State in which the agreement is performed.	*The purpose of this section is to extend the current law related to IHS professionals to tribal and tribal organization employees so that if they are licensed in any one jurisdiction, they may practice in any tribal program.*
AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES **Sec. 222 ~~406~~.** With respect to an elderly Indian or an ~~disabled~~ Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.	
~~**CONTRACT HEALTH SERVICES PAYMENT STUDY**~~ ~~**Sec. 219.** (a) The Secretary, acting through the Service and in consultation with representatives of Indian Tribes and tribal organizations operating contract health care programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) Or under self-governance compacts, Service personnel, private contract health services providers, the Indian Health Service Fiscal Intermediary, and other appropriate experts, shall conduct a study – –~~ ~~(1) to assess and identify administrative barriers that hinder the timely payment for services delivered by private contract health services providers to individual Indians by the Service and the Indian Health Service Fiscal Intermediary.~~ ~~(2) to assess and identify the impact of such delayed payments upon the personal credit histories of individual Indians who have been treated by such providers; and~~ ~~(3) to determine the most efficient and effective means of improving the Service's contract health service payment system and ensuring the development of appropriate consumer protection policies to protect individual Indians who receive authorized services from private contract health services providers from billing and collection practices, including the development of materials and programs explaining patients' rights and responsibilities.~~ ~~(b) The study required by subsection (a) shall – –~~ ~~(1) assess the impact of the existing contract health services regulations and policies upon the ability of the Service and the Indian Health Service Intermediary to process, on a timely and efficient basis, the payment of bills submitted by private contract health services providers;~~	*Sec. 219 has been deleted since the study has been completed.*

~~(2) assess the financial and any other burdens imposed upon individual Indians and private contract health services providers by delayed payments;~~ ~~(3) survey the polices and practices of collection agencies used by contract health services providers to collect payments for services rendered to individual Indians;~~ ~~(4) identify appropriate changes in federal policies, administrative procedures, and regulations, to eliminate the problems experienced by private contract health services providers and individual Indians as a result of delayed payments; and~~ ~~(5) compare the Service's payment processing requirements with private insurance claims processing requirement to evaluate the systemic differences or similarities employed by the Service and private insurers.~~ ~~(c) Not later than 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report that includes –~~ ~~(1) a detailed description of the study conducted pursuant to this section; and~~ ~~(2) a discussion of the findings and conclusions of such study.~~	
PROMPT ACTION ON PAYMENT OF CLAIMS **Sec. 223 ~~220~~** (a) The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification. (b) If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service. (c) The Service shall pay a valid ~~completed~~ contract care service claim within 30 days after completion of the claim.	
~~**DEMONSTRATION OF ELECTRONIC CLAIMS PROCESSING**~~ ~~**SEC. 221.** (a) Not later than June 15, 1993, the Secretary shall develop and implement, directly or by contract, 2 projects to demonstrate in a pilot setting the use of claims processing technology to improve the accuracy and timeliness of the billing for, and payment of, contract health services.~~ ~~(b) The Secretary shall conduct one of the projects authorized in subsection (a) in the Service area served by the area office located in Phoenix, Arizona.~~	*Section 221, Demonstration of Electronic Claims Processing, should be deleted because it involves pilot projects which were to be done in 1993 and is no longer necessary*
LIABILITY FOR PAYMENT	*The new subsection (c) is intended to strengthen the limitations on private health providers who try*

Sec. 224 ~~222~~ (a) A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services. (b) The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services. (c) Following receipt of the notice provided by subsection (a) of this section, or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services.	*to pursue contract health services beneficiaries for payment when the Service has failed to Act or to make payment for which the Service is liable.*
AUTHORIZATION OF APPROPRIATIONS **SEC. 225 ~~224~~.** ~~Except as provided in sections 209(m), 211, 213, 214(b)(5), 215, and 216, t~~There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year ~~2000~~ 2012 to carry out this title.	
TITLE III – ~~HEALTH~~ FACILITIES	
CONSULTATION; CONSTRUCTION AND RENOVATION ~~CLOSURE~~ OF FACILITIES; REPORTS **Sec. 301.** (a) Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, acting through the Service, shall– (1) consult with any Indian Tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and (2) ensure, whenever practicable, that such facility meets the construction standards of any nationally recognized accrediting body ~~the Joint Commission on Accreditation of Health Care Organizations~~ by not later than 1 year after the date on which the construction or renovation of such facility is completed.	*Accreditation by any recognized accrediting body. IHS' approval of the accrediting body is not required since IHS has no mechanism for granting such approval. Specific reference to JCAHO is not necessary.*
(b)(1) Notwithstanding any provision of law other than this subsection, no Service hospital or outpatient health care facility ~~of the Service~~ or any inpatient service or special care facility operated by the Service may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date of such ~~hospital or facility (or portion thereof) is~~ proposed ~~to be closed~~ closure an evaluation of the impact of such proposed closure which specifies, in addition to other considerations– (A) the accessibility of alternative health care resources for the population served by such hospital or facility; (B) the cost effectiveness of such closure;	*Limitations on closure of health facilities are expanded to cover any IHS inpatient service.*

(2) The quality of health care to be provided to the population served by such hospital or facility after such closure; (3) (4) (D) the availability of contract health care funds to maintain existing levels of service; (5) (6) (E) the views of the Indian Tribes served by such hospital or facility concerning such closure; (7) (8) (F) the level of utilization of such hospital or facility by all eligible Indians; and (9) (10) (G) the distance between such hospital or facility and the nearest operating Service hospital. (11) (12) (2) Paragraph (1) shall not apply to any temporary closure of a facility or any portion of a facility if such closure is necessary for medical, environmental, or <u>construction</u> safety reasons.	
(c)(1) <u>The Secretary shall establish a health care facility priority system, which shall—</u> <u>(A) be developed with Indian Tribes and tribal organizations by negotiated rulemaking under Section 802;</u> <u>(B) give Indian Tribes' needs the highest priority, and</u> <u>(C) at a minimum, include the lists required in paragraph (2)(B) and the methodology required in paragraph (2)(E) of this subsection;</u> <u>provided however that the priority of any project established under the construction priority system in effect on the date of this Act shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as one of the top ten priority inpatient projects or one of the top ten outpatient projects in the FY 2000 Indian Health Service budget justification, or if the project had completed both Phase I and Phase II of the construction priority system in effect on the date of this Act.</u> (2)~~(1)~~ The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth– (A) <u>a description of</u> the ~~current~~ health <u>care</u> facility priority system of the Service, <u>established under paragraph (1) of this subsection</u>; (B) <u>health care facilities lists, including but not limited to–</u>	*Requires the Secretary to develop a priority system, which will report on <u>all</u> health care facilities needs, through negotiated rulemaking with Tribes and tribal organizations. Adds Grandfathering provision for projects on the existing 10 top-priority lists and those that have completed Phase II of the process. All programs under the Indian Self-Determination and Education Assistance Act are covered, not just Title I contracts*

(i) the total health care facilities planning, design, construction and renovation needs for Indians; (ii) ~~for~~ the 10 top-priority inpatient care facilities; (iii) the 10 top-priority outpatient care facilities; (iv) the 10 top-priority specialized care facilities (such as long-term care and alcohol and drug abuse treatment); and ~~the 10 top-priority ambulatory care facilities~~ (v) ~~(together with required~~ any staff quarters~~)~~ associated with such prioritized facilities; (C) the justification for such order of priority; (D) the projected cost of such projects, and (E) the methodology adopted by the Service in establishing priorities under its health care facility priority system. (3)~~(2)~~ In preparing each report required under paragraph ~~(1)~~(2) (other than the initial report), the Secretary shall annually– (A) consult with and obtain information on all health care facilities needs from Indian Tribes and tribal organizations, including those Tribes or tribal organizations operating health programs or facilities under any funding agreement ~~contract~~ entered into with the Service under the Indian Self- Determination and Education Assistance Act, and (B) review the total unmet needs of all ~~such~~ Tribes and tribal organizations for health care ~~inpatient and outpatient~~ facilities (including staff quarters), including ~~their~~ needs for renovation and expansion of existing facilities. (4)~~(3)~~ For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement ~~contract~~ entered into with the Service under the Indian Self-Determination Act and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service. (5)~~(4)~~ The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities, operated under funding agreements ~~which are the subject of a contract for health services entered into with the Service, under~~ in accordance with the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the ~~development of the~~ health care facility priority system.	*Continues to require maintenance of the priority system to be done through consultation.*

(d) **REVIEW OF NEED FOR FACILITIES.** (1) Beginning in the year 2000, the Secretary shall annually submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801 of this Act, a report which sets forth the needs of IHS and all Indian Tribes and tribal organizations, including urban Indian organizations, for inpatient, outpatient and specialized care facilities, including the needs for renovation and expansion of existing facilities . (2) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian Tribes and tribal organizations including those Tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.), and with urban Indian organizations. (3) For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service. (4) The Secretary shall ensure that the planning, design, construction, and renovation needs of facilities operated under funding agreements, in accordance with the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the development of the health facility priority system. (5) Every year the Secretary shall provide an opportunity for nomination of planning, design, and construction projects by IHS and all Tribes and tribal organizations for consideration under the health care facility priority system.	*Fairness in reporting health facility needs is required.*
(e) All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian Tribe or Tribes shall be subject to the provisions of section 102 of the Indian Self- Determination and Education Assistance Act.	*All Indian Self-Determination and Education Assistance Act programs are included.*
(f) The Secretary shall consult and cooperate with Indian Tribes, tribal organizations and urban Indian organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.	*Provide incentives for fostering partnerships among I/T/U without taking priority away from Tribes and seek out creative ways to meet unmet needs.*
SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES **Sec. 302.** (a) The Congress hereby finds and declares that– (1) the provision of safe water supply ~~systems~~ facilities and sanitary sewage and solid waste disposal ~~systems~~ facilities is primarily a health consideration and function; (2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such ~~systems~~ facilities; (3) the long-term cost to the United States of treating and curing such disease, injury,	*Funding for safe water and sanitation is strengthened. Changes the word "system" to "facility" in order to be consistent with PL 86-121 and the rest of this section. Retains the original understanding that community facilities serve Indian homes and Indian lands.*

and illness is substantially greater than the short-term cost of providing such ~~systems~~ facilities and other preventive health measures; (4) many Indian homes and communities still lack safe water supply ~~systems~~ facilities and sanitary sewage and solid waste disposal ~~systems~~ facilities; and (5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply ~~systems~~ facilities and sanitary sewage waste disposal ~~systems~~ facilities ~~as soon as possible~~.	
(b)(1) In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).– (2) The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)– (A) financial and technical assistance to Indian Tribes, tribal organizations and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities, including the provision of existing plans, standard details, and specifications available in the department, to be used at the option of the Tribe or tribal organization; (B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and (C) priority funding for operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid an imminent health threat ~~hazard~~ or to protect the ~~federal~~ investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities. (3) Notwithstanding any other provision of law– (A) the Secretary of Housing and Urban Development ~~Affairs~~ is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 ~~Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.)~~ to the Secretary of Health and Human Services, ~~and~~ (B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a). (C) unless specifically authorized when funds are appropriated, the Secretary of Health and Human Services shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development. (D) the Secretary of Health and Human Services is authorized to accept all federal funds	*For subsections (b) and (c), the IHS's role is expanded to authorize assistance to tribal organizations in addition to Tribes and communities. Expands the type of assistance that IHS may provide to address sanitation facility needs. Provides guidelines for HUD-IHS cooperation and cooperation with other federal agencies, and provides for a 10-year funding plan.* *All investments, not just those of the federal government, should be protected. Imminent health threats involve not only the sanitation facility, but also the health benefits gained from the facility.*

that are for the purpose of providing sanitation facilities and related services and place those funds into funding agreements, authorized under the Indian Self Determination and Education Assistance Act, (25 U.S.C. 450f, et. seq.), between the Secretary and Indian Tribes and tribal organizations. (E) the Secretary may allow funds appropriated under the authority of section 2004 of title 42 to be used to fund up to 100 percent of the amount of a Tribe's loan obtained under any federal program for new projects to construct eligible sanitation facilities to serve Indian homes. (F) the Secretary may allow funds appropriated under the authority of section 2004 of title 42 to be used to meet matching or cost participation requirements under other federal and non-federal programs for new projects to construct eligible sanitation facilities. (G) all federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned or appropriated whereby the Department's applicable policies, rules, regulations shall apply in the implementation of such projects. (H) The Secretary of Health and Human Services shall enter into inter-agency agreements with the Bureau of Indian Affairs, the Department of Housing and Urban Development, the United States Department of Agriculture, the Environmental Protection Agency and other appropriate federal agencies, for the purpose of providing financial assistance for safe water supply and sanitary sewage disposal facilities under this Act. (I) The Secretary of Health and Human Services shall, by regulation developed through rulemaking under Section 802, establish standards applicable to the planning, design and construction of water supply and sanitary sewage and solid waste disposal facilities funded under this Act.	*Ensures that the Health and Human Services has full responsibility for developing and applying universal standards for the construction of sanitation systems to eliminate confusion from multiple agency standards.*
(c) ~~Beginning in fiscal year 1990, t~~ The Secretary, acting through the Service and in consultation with Indian Tribes and tribal organizations, shall develop and begin implementation of a 10-year funding plan to provide safe water supply and sanitary ~~ion~~ sewage and solid waste disposal facilities serving ~~to~~ existing Indian homes and communities, and to new and ~~to~~ renovated Indian homes.	*See comments above for (b).*
(d) The financial and technical capability of an Indian Tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.	
(e) ~~(1)~~ The Secretary is authorized to provide financial assistance to Indian Tribes, tribal organizations and communities for operation, management and maintenance of their sanitation ~~in an amount equal to the cost of operating, managing, and maintaining the~~ facilities ~~provided under the plan described in subsection (c) of this section~~. ~~(2) For the purposes of paragraph (1), the term "federal share" means 80 percent of the costs described in paragraph (1).~~	*Provides financial assistance for operation, management and maintenance of sanitation facilities.*

~~(3) With respect to Indian Tribes with fewer than 1,000 enrolled members, the non-federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.~~	
(f) The Indian family, community or Tribe has the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities. If a community facility is threatened with imminent failure and there is a lack of tribal capacity to maintain the integrity and/or the health benefit of the facility, then the Secretary is authorized to assist the Tribe in the resolution of the problem on a short term basis through cooperation with the emergency coordinator or by providing operation and maintenance service.	*While the Tribe or family has primary responsibility for funding maintenance, IHS is authorized to assist in emergencies.*
(g)~~(f)~~ Programs administered by Indian Tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for— (1) any funds appropriated pursuant to this section, and (2) any funds appropriated for the purpose of providing water supply, ~~or~~ sewage disposal or solid waste facilities ~~services~~, on an equal basis with programs that are administered directly by the Service.	*All Indian Self-Determination and Education Assistance Act programs are eligible.*
(h)~~(g)~~(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth– (A) the current Indian sanitation facility priority system of the Service; (B) the methodology for determining sanitation deficiencies; (C) the level of initial and final sanitation deficiency for each type of sanitation facility~~ies~~ for each project of each Indian Tribe or community; (D) the amount of funds necessary to reduce the identified sanitation deficiency levels of ~~raise~~ all Indian Tribes and communities to level I sanitation deficiency as defined in subsection (h)(4)(A) of this section. ~~; and~~ ~~(E) the amount of funds necessary to raise all Indian Tribes and communities to zero sanitation deficiency~~. (2) In preparing each report required under paragraph (1) ~~(other than the initial report)~~, the Secretary shall consult with Indian Tribes and tribal organizations (including those Tribes or tribal organizations operating health care programs or facilities under any funding agreement ~~contract~~ entered into with the Service under the Indian Self-Determination and Education Assistance Act) to determine the sanitation needs of each Tribe and in developing the criteria on which the needs will be evaluated through a process of negotiated rule making.	*Reporting requirements are specified and the sanitation deficiency levels are revised.*

(3) The methodology used by the Secretary in determining, preparing cost estimates for and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian Tribes and communities.

(4) For purposes of this subsection, the sanitation deficiency levels for an individual or community sanitation facility serving Indian homes ~~Tribe or community~~ are as follows:

Changes the focus of the deficiency level to place emphasis on the facility itself—defines the deficiency in terms of the facility rather than focusing on the Tribe or community's management of the facility. Makes the deficiency levels consistent with PL 86-121.

(A) a level I deficiency is a sanitation facility serving an individual ~~Indian Tribe~~ or community ~~with a sanitation system~~ –

(i) which complies with all applicable water supply, ~~and~~ pollution control and solid waste disposal laws, and

(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs;

(B) a level II deficiency is a sanitation facility serving an individual ~~Indian Tribe~~ or community ~~with a sanitation system~~ –

(i) which substantially or recently complied ~~s~~ with all applicable water supply, ~~and~~ pollution control and solid waste laws, in which the deficiencies relate to small or minor capital improvements needed to bring the facility back into compliance; ~~and~~

(ii) ~~in which the~~ deficiencies relate to capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs ~~of such Tribe or community~~ for domestic sanitation facilities; or

(iii) in which the deficiencies relate to the lack of equipment or training by an Indian Tribe or community to properly operate and maintain the sanitation facilities;

(C) a level III deficiency is an individual ~~Indian Tribe~~ or community ~~with a sanitation system~~ facility with water and/or sewer service in the home, piped services or a haul system with holding tanks and interior plumbing, or where major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies. There is no access to or no approved or permitted solid waste facility available, ~~which~~

~~(i) has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or~~

~~(ii) has no solid waste disposal facility;~~

(D) a level IV deficiency is an individual ~~Indian Tribe~~ or community ~~with a sanitation system~~ facility where there is no piped ~~which lacks either a safe~~ water and/or sewer facilities in the home or the facility has become inoperable due to major component failure or where only a washeteria or central facility exists; ~~supply system or a sewage disposal system; and~~

(E) a level V deficiency is the absence of a sanitation facility; where individual homes do not have access to ~~an Indian Tribe or community that lacks a~~ safe drinking water or adequate wastewater ~~supply and a sewage~~ disposal ~~system~~.

~~(6) For purposes of this subsection, any Indian Tribe or community that lacks the operation and maintenance capability to enable its sanitation system to meet pollution control laws may not be treated as having a level I or II sanitation deficiency.~~ ~~(7)~~ (8) (i) For purposes of this section – (9) (10) (1) the terms "facility" or "facilities" shall have the same meaning as the terms "system" or "systems" unless the context requires otherwise; and (2) the term "Indian community" shall mean a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section. (11) (12)	
PREFERENCE TO INDIANS AND INDIAN FIRMS **Sec. 303.** (a) The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or current federally recognized Indian Tribes in the State of New York (hereinafter referred to as an "Indian firm") in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.	*Indian preference in construction is preserved.*
(b) For the purpose of implementing the provisions of this title, ~~the Secretary shall assure that the rates of pay for personnel engaged in the~~ construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are exempt from ~~not less than the prevailing local wage rates for similar work as determined in accordance with~~ the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act.) For all health facilities, staff quarters and sanitation facilities, construction and renovation subcontractors shall be paid wage rates not less than the prevailing wages on similar construction in the locality, as determined by the Indian Tribe, Tribes, or tribal organizations served by such facilities.	*Davis-Bacon requirements are waived. Sub-contractors for staff quarters, sanitation facilities and all health facilities are paid no less than the prevailing wage determined by the Tribe.*
SOBOBA SANITATION FACILITIES **Sec. 304.** The Act of December 17, 1970 (84 Stat. 1465), is hereby amended by adding the following new section 9 at the end thereof:	*This section should be preserved (deletion should only be done with Soboba's input and would need to make clear that Soboba remains eligible for sanitation facilities*

Sec. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5,1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).	*and services available under applicable).*
EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION **Sec. 305.** (a)(1)Notwithstanding any other provision of law, the Secretary is authorized to accept any major expansion, renovation or modernization by any Indian Tribe of any Service facility, or of any other Indian health facility operated pursuant to a funding agreement ~~contract~~ entered into under the Indian Self-Determination and Education Assistance Act, including– (A) any plans or designs for such expansion, renovation or modernization, and (B) any expansion, renovation or modernization for which funds appropriated under any federal law were lawfully expended, but only if the requirements of subsection (b) are met. (2) The Secretary shall maintain a separate priority list to address the needs for increased operating ~~of such~~ expenses, ~~facilities for~~ personnel or equipment for such facilities. The methodology for establishing priorities shall be developed by negotiated rulemaking under Section 802. The list of priority facilities will be revised annually in consultation with Indian Tribes and tribal organizations. (3) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2). (b) The requirements of this subsection are met with respect to any expansion, renovation or modernization if– (1) the Tribe or tribal organization– (A) provides notice to the Secretary of its intent to expand, renovate or modernize; and (B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel or equipment; and (2) the expansion, renovation or modernization– (A) is approved by the appropriate area director of the Service for federal facilities; and (B) is administered by the Indian Tribe or tribal organization in accordance with any applicable ~~the rules and~~ regulations prescribed by the Secretary with respect to construction or renovation of Service facilities. (c) If any Service facility which has been expanded, renovated or modernized by an Indian Tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation or modernization is completed,	*Section 305 includes renovation and all Indian Self-Determination and Education Assistance Act programs. Includes authorization for expansion projects in addition to renovation and modernization projects. Requires a priority list to be developed in consultation with Tribes and tribal organizations to address needs for increased operating funds.*

such Indian Tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation or modernization (less the total amount of any funds provided specifically for such facility under any federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation or modernization.	
FUNDING ~~GRANT PROGRAM~~ FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES **Sec. 306.** (a)(1) The Secretary, acting through the Service and in consultation with Indian Tribes and tribal organizations, shall make funding available ~~grants~~ to Tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided in subsections (c)(1)(C) and (b)(2) of this section). Funding ~~A grant~~ made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term "construction" includes the replacement of an existing facility. (2) Funding ~~A grant~~ under paragraph (1) may only be made available to an Indian Tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian Tribe or tribal organization) pursuant to a funding agreement ~~contract~~ entered into under the Indian Self-Determination and Education Assistance Act. (b)(1) Funding ~~A grant~~ provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility– (A) located apart from a hospital; (B) not funded under section 301 or section 307; and (C) which, upon completion of such construction, or modernization will– (i) have a total capacity appropriate to its projected service population; (ii) ~~serve~~ provide annually no less than 500 patient visits by eligible Indians ~~annually~~ and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B); and (iii) provide ambulatory care in a service area (specified in the funding agreement ~~contract~~ entered into under the Indian Self-Determination and Education Assistance Act) with a population of no fewer ~~not less~~ than 1500 ~~2,000~~ eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B). (2) Funding provided under this section may be used only for the cost of that portion of a construction, expansion or modernization project that benefits the service population	*Consultation is required and the program includes all Indian Self-Determination and Education Assistance Act Tribes. In calculating service population, non-eligible beneficiaries eligible under Section 813(b)(1)(B) are included. Funding is not included in tribal shares or in Indian Self-Determination and Education Assistance Act awards and cannot be reallocated to other purposes. Limits reversion of title to the United States for change of use to five years and allows the Service and Tribes to negotiate an agreement for an alternative result.*

identified above in subsection (b)(1)(C)(ii) and (iii). The requirements of clauses (ii) and (iii) of paragraph (l) (C) shall not apply to a Tribe or tribal organization applying for funding ~~a grant~~ under this section whose ~~tribal government~~ principal office~~s are~~ for health care administration is located on an island or when such office is not located on a road system providing direct access to an inpatient hospital where care is available to the service population.	*Retains the island exemption and allows funding under this section to serve other extremely isolated areas.*
(c)(1) No funding ~~grant~~ may be made available under this section unless an application or proposal for such funding ~~a grant~~ has been submitted to and approved by the Secretary. An application or proposal for funding ~~a grant~~ under this section shall be submitted in accordance with applicable ~~such form and manner as the Secretary shall by~~ regulations ~~prescribe~~ and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to funding ~~a grant~~ received under this section– (A) adequate financial support will be available for provision of services at such facility; (B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and (C) such facility will, as feasible without the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis. (2) In awarding funding ~~grants~~ under this section, the Secretary shall give priority to Tribes and tribal organizations that demonstrate– (A) a need for increased ambulatory care services; and (B) insufficient capacity to deliver such services. (3) The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and proposals and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).	
(d) If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, within five years ~~at any time~~ after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purpose~~s~~ of providing ~~ambulatory~~ health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian Tribe or tribal organization.	*As noted above, the reversionary clause could make it difficult to obtain loans, so the period has been limited to 5 years. Consistent with the policy of the Act and the ISDEAA, Tribes and tribal organizations have discretion to change the use of the facility so long as it continues to be used to provide health care to Indians.*
(e) Funding provided to Indian Tribes and tribal organizations under this section shall be non-recurring and shall not be available for inclusion in any individual Tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act or for reallocation or redesign thereunder.	

INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT **Sec. 307**(a) **HEALTH CARE DEMONSTRATION PROJECTS.–**The Secretary, acting through the Service, in consultation with Indian Tribes and tribal organizations, is authorized to enter into funding agreements ~~contracts~~ with, or make grants or loan guarantees to, Indian Tribes or tribal organizations for the purpose of carrying out a heath care delivery demonstration project to test alternative means of delivering health care and services through facilities, including but not limited to hospice, traditional Indian health and child care facilities, to Indians. (b) **USE OF FUNDS.—** The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to– (1) waive any leasing prohibition; (2) permit carryover of funds appropriated for the provision of health care services; (3) permit the use of ~~non-Service~~ other available ~~federal funds and non-federal~~ funds; (4) permit the use of funds or property donated from any source for project purposes; ~~and~~ (5) provide for the reversion of donated real or personal property to the donor~~.~~; and (6) (7) (6) permit the use of Service funds to match other funds, including federal funds. (8) (9) (c) **CRITERIA.**–(1) ~~Within 180 days after the date of enactment of this section, t~~The Secretary~~, after consultation with Indian Tribes and tribal organizations,~~ shall develop and publish regulations, through rulemaking under Section 802, ~~in the federal Register criteria~~ for the review and approval of applications submitted under this section. The Secretary may enter into a contract or funding agreement or award a grant under this section for projects which meet the following criteria: (10) (11)(A) There is a need for a new facility or program or the reorientation of an existing facility or program. (12) (13)(B) A significant number of Indians, including those with low health status, will be served by the project. (14) (15)(C) The project has the potential to deliver services in an efficient and effective manner. (16) (17)(D) The project is economically viable. (18) (19)(E) The Indian Tribe or tribal organization has the administrative and financial capability to administer the project. (20) (21)(F) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.	*Demonstration projects using funding agreements, contracts, grants or loan guarantees are authorized with specific criteria and special rules on use of funds. Hospice facilities, traditional healing centers and child care facilities are specifically referenced, but are only intended as examples—not limitations. Continues to provide that facilities can be shifted from one type to another (reorientation). Allows funds under this section to be used in matching other federal funds.*

(22)
(23)(2) The Secretary may provide for the establishment of peer review panels, as necessary to review and evaluate applications using the criteria developed pursuant to paragraph (1).
~~(24)~~
(25)(3)~~(A) On or before September 30, 1995,~~ T~~t~~he Secretary shall give priority to applications for demonstration projects in each of the following service units to the extent that such applications are timely filed and ~~enter into contracts or award grants under this section for a demonstration project in each of the following service units which~~ meets the criteria specified in paragraph (1)~~ and for which a completed application has been received by the Secretary~~:
(26)
(27)
(28) (i) Cass Lake, Minnesota.
(29)
(30) (ii) Clinton, Oklahoma.
(31)
(32) (iii) Harlem, Montana.
(33)
(34) (iv) Mescalero, New Mexico.
(35)
(36) (v) Owyhee, Nevada.
(37)
(38) (vi) Parker, Arizona.
(39)
(40) (vii) Schurz, Nevada.
(41)
(42) (viii)Winnebago, Nebraska.
(43)
(44) (ix) Ft. Yuma, California
(45)
(46) ~~(B) The Secretary may also enter into contracts or grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).~~
(47)
(48)(d) **TECHNICAL ASSISTANCE.–** The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.
(49)
(50)(e) **SERVICE TO INELIGIBLE PERSONS.–** The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in ~~s~~Service facilities to non-Service health practitioners as provided in section ~~713~~ 807 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.
(51)
(52)(f) **EQUITABLE TREATMENT.–** For purposes of subsection (c)(1)(a), the Secretary shall, in evaluating facilities operated under any funding agreement ~~contract~~

NOTE TO LEGISLATIVE COUNSEL:
Funding has not been provided for a demonstration project in any of the service units listed in paragraph (3)(C). The tribal Steering Committee, therefore, agreed that these nine service units should receive priority for the award of any demonstration project funding to the extent that such service unit has not already received new construction funding through the regular construction priority list.

IHS will supply up-dated information on which of the listed service units have already received construction funding so that these service units can be removed from the priority list in paragraph (3)(C) when the bill is drafted.

entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service. (53) (54)(g) **EQUITABLE INTEGRATION OF FACILITIES.–**The Secretary shall ensure that the planning, design, construction, ~~and~~ renovation and expansion needs of Service and non-Service facilities which are the subject of a funding agreement ~~contract~~ for health services entered into with the Service under the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section. (55) (56)~~(h)(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.~~ ~~(57)(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.~~ (58)	*The time for the reports under (h)(1) and (h)(2) has passed.*
LAND TRANSFER **Sec. 308.** (a) The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center. (b) Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.	*This section is expanded to cover all land transfers for provision of health care services.*
LEASES ~~WITH INDIAN TRIBES~~ **Sec. 309 ~~804~~**. (a) Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian Tribes and tribal organizations for periods not in ~~to~~ excess of twenty (20) years. Property leased by the Secretary from an Indian Tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian Tribe or tribal organization. (b) The Secretary may enter into leases, contracts, and other legal agreements with Indian Tribes or tribal organizations which hold– (1) title to; (2) a leasehold interest in; or	*This section was formally section 804. Leases from Tribes to the IHS for health services are to be considered operating leases and not be "scored" against the first year's appropriation. The purpose is to encourage the use of such leases as a financing vehicle for health facility construction. The cross-reference to the Budget Enforcement Act may need to be updated.*

(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a Tribe); facilities used for the administration and delivery of health services by the Service or by programs operated by Indian Tribes or tribal organizations to compensate such Indian Tribes or tribal organizations for costs associated with the use of such facilities for such purposes, and such leases shall be considered as operating leases for the purposes of scoring under the Budget Enforcement Act, notwithstanding any other provision of law. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable pursuant to regulations under section 105(*l*) of the Indian Self-Determination and Education Assistance Act.	
LOANS, LOAN GUARANTEES AND LOAN REPAYMENT **Sec. 310** (a) There is established in the Treasury of the United States a fund to be known as the Health Care Facilities Loan Fund (hereinafter "HCFLF") to provide to Indian Tribes and tribal organizations direct loans, or guarantees for loans, for construction of health care facilities (including but not limited to inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities—such as behavioral health and elder care facilities). (b) The Secretary is authorized to issue regulations, developed through rulemaking as set out in Section 802, to provide standards and procedures for governing such loans and loan guarantees, subject to the following conditions: (1) The principal amount of a loan or loan guarantee may cover 100% of eligible costs, including but not limited to planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, other facility related costs and capital purchase (but excluding staffing); (2) The cumulative total of the principal of direct loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriation acts; (3) In the discretion of the Secretary, the program may be administered by the Service or the Health Resources and Services Administration (which shall be specified by regulation); (4) The Secretary may make or guarantee a loan with a term of the useful estimated life of the facility, or twenty-five (25) years, whichever is shorter. (5) The Secretary may allocate up to 100% of the funds available for loans or loan guarantees in any year for the purpose of planning and applying for a loan or loan guarantee. (6) The Secretary may accept an assignment of the revenue of an Indian Tribe or tribal organization as security for any direct loan or loan guarantee under this section. (7) In the planning and design of health facilities under this section, users eligible under Section 807(b) may be included in any projection of patient population. (8) The Secretary shall not collect loan application, processing or other similar fees	*This new section establishes a revolving loan program for direct loans and loan guarantees to address the health facility construction backlog. Provides that the funds are refreshed as loans are repaid and allows for continuing appropriations. Allows funds under this section to be used for matching other federal funds. Establishes a grant program for loan repayment.*

from Indian Tribes or tribal organizations applying for direct loans or loan guarantees under this section. (9) Service funds authorized under loans or loan guarantees in this section shall be eligible for use in matching other federal funds. (c) (1) HCFLF shall consist of – (A) such sums as may be initially appropriated to HCFLF and as may be subsequently appropriated to the Fund under paragraph (2); (B) such amounts as may be collected from borrowers; and (C) all interest earned on amounts in HCFLF. (d) (e) (2) There are authorized to be appropriated such sums as may be necessary to initiate HCFLF. For each fiscal year after the initial year in which funds are appropriated to HCFLF, there are authorized to be appropriated an amount equal to the sum of the amount collected by HCFLF during the preceding fiscal year, and all accrued interest. (f) (g) (3) All amounts appropriated, collected or earned relative to HCFLF shall remain available until expended. (h) (i) (d) Amounts in HCFLF and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make loans under this section to an Indian Tribe or tribal organization pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act. (j) (k) (e) The Secretary of the Treasury shall invest such amounts of HCFLF as such Secretary determines are not required to meet current withdrawals from HCFLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the fund may be sold by the Secretary of the Treasury at the market price. (l) (m) (f) The Secretary is authorized to establish a program to provide grants to Indian Tribes and tribal organizations for the purpose of repaying all or part of any loan obtained by an Indian Tribe or tribal organization for construction and renovation of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities). Loans eligible for such repayment grants shall include loans that have been obtained under this Section or otherwise.	
TRIBAL LEASING **Sec. 311 ~~820~~.** Indian Tribes and tribal organizations providing health care services pursuant to a funding agreement ~~contract~~ entered into under the Indian Self-Determination and Education Assistance Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.	*This section was formally section 820. Includes all Indian Self-Determination and Education Assistance Act Tribes.*

~~DEMONSTRATION PROJECTS FOR TRIBAL MANAGEMENT OF HEALTH CARE SERVICES~~ **~~Sec. 818.~~** ~~(a)(1) The Secretary, acting through the Service, shall make grants to Indian Tribes to establish demonstration projects under which the Indian Tribe will develop and test a phased approach to assumption by the Indian Tribe of the health care delivery system of the Service for members of the Indian Tribe living on or near the reservations of the Indian Tribe through the use of Service, tribal, and private sector resources.~~ ~~(2) A grant may be awarded to an Indian Tribe under paragraph (1) only if the Secretary determines that the Indian Tribe has the administrative and financial capabilities necessary to conduct a demonstration project described in paragraph (1).~~ ~~(b) During the period in which a demonstration project established under subsection (a) is being conducted by an Indian Tribe, the Secretary shall award all health care contracts, including community, behavioral, preventive health care contracts, to the Indian Tribe, in the form of a single grant to which the regulations prescribed under part A of title XIX of the Public Health Service Act (as modified as necessary by any agreement entered into between the Secretary and the Indian Tribe to achieve the purposes of the demonstration project established under subsection (a)) shall apply.~~ ~~(c) The Secretary may waive such provisions of federal procurement law as are necessary to enable any Indian Tribe to develop and test administrative systems under the demonstration project established under subsection (a), but only if such waiver does not diminish or endanger the delivery of health care services to Indians.~~ ~~(d)(1) The demonstration project established under subsection (a) shall terminate on September 30, 1993 or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after date on which such grant is made.~~ ~~(2) By no later than September 30, 1996, the Secretary shall evaluate the performance of each Indian Tribe that has participated in a demonstration project established under subsection (a) and shall submit to the Congress a report on such evaluations and demonstration projects.~~	*This section was formally section 818. Subsections (a) through (d) are deleted because the period for the demonstration has long since passed. Subsection (e) was retained with changes, and it appears below in the newly titled section 312.*
INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM **Sec. 312** (a) ~~818(e)(1)~~ The Secretary, acting through the Service, shall make arrangements with Indian Tribes and tribal organizations to establish joint venture demonstration projects under which an Indian Tribe or tribal organization shall expend tribal, private, or other available ~~nontribal~~ funds, for the acquisition or construction of a health facility for a minimum of ~~20~~ 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A Tribe or tribal organization may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection. A Tribe that has begun and substantially completed the process of acquisition or construction of a health facility shall be eligible to establish a joint venture project with the Service using such health	*This section was formally subsection (e) of Section 818 (Demonstration Projects for tribal Management of Health Care Services). The IHS and Tribes may enter into joint ventures under which the Tribe is responsible for the facility and IHS is responsible for equipment, supplies, and staffing. Provides that the IHS and the Tribe, at the time of entering into a joint venture, shall negotiate to determine the appropriate course of action at the end of the lease*

shall be eligible to establish a joint venture project with the Service using such health facility. (b)(1) ~~(2)~~ The Secretary shall make such an arrangement with an Indian Tribe or tribal organization only if – (A) the Secretary first determines that the Indian Tribe or tribal organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1), and (B) the Indian Tribe or tribal organization meets the need criteria which shall be developed through the negotiated rulemaking process provided for under Sec. 802. (2) The Secretary shall negotiate an agreement with the Indian Tribe or tribal organization regarding the continued operation of the facility at the end of the initial 10 year no-cost lease period. (c) ~~(3)~~ An Indian Tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the Tribe or tribal organization, or paid to a third party on the Tribe's or tribal organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing~~, shall be recoverable~~. (d) Recovery for non-use. An Indian Tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection shall be entitled to recover from the United States an amount that is proportional to the value of such facility should at any time within 10 years the Service ceases to use the facility or otherwise breaches the agreement. (e) Wherever "health facility" or "health facilities" are used in this section, they may include quarters needed to provide housing for staff of the tribal health program.	*period. Provides for staff quarters construction. Allows creative, alternative financing. Tribe/tribal organization must demonstrate administrative and financial capabilities for construction or acquisition of the facility, and must meet the "need" criteria that are to be developed through negotiated rulemaking.*
LOCATION OF FACILITIES ~~PRIORITY FOR INDIAN RESERVATIONS~~ **Sec. 313 ~~824.~~** (a) ~~Beginning on the date of the enactment of this section, t~~ The Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian owner and the Indian Tribe with jurisdiction over such lands or other lands owned or leased by the Indian Tribe or tribal organization, provided that priority shall be given to Indian land owned by an Indian Tribe or Tribes. (b) For purposes of this section, the term "Indian lands" means– (1) all lands within the ~~limits~~ exterior boundaries of any Indian reservation; ~~and~~	*This section was formally section 824. In locating facilities, the Bureau of Indian Affairs continues to give preference to Indian lands. The definition of Indian lands is adjusted to make this provision meaningful in Alaska.*

(2) any lands title ~~[~~to~~]~~ which is held in trust by the United States for the benefit of any Indian Tribe or individual Indian, or held by any Indian Tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian Tribe exercises governmental power~~.~~; and (3) all lands in Alaska owned by any Alaska Native village, or village or regional corporation under the Alaska Native Claims Settlement Act, or any land allotted to any Alaska Native.	
MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES **Sec. 314.** (a) The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801, a report which identifies the backlog of maintenance and repair work required at both Service and tribal facilities, including new facilities expected to be in operation in the next fiscal year. The report shall also identify the need for renovation and expansion of existing facilities to support the growth of health care programs. (b) The Secretary is authorized to expend maintenance and improvement funds to support maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Tribe or tribal organization. "Supportable space allocation" shall be defined through the negotiated rulemaking process provided for under Section 802. (c) In addition to using maintenance and improvement funds for renovation, modernization and expansion of facilities, an Indian Tribe or tribal organization may use maintenance and improvement funds for construction of a replacement facility if the costs of renovation of such facility would exceed a maximum renovation cost threshold. The "maximum renovation cost threshold" shall be determined through the negotiated rulemaking process provided for under Section 802.	*This is a new section. Requires a report to Congress on the maintenance and improvement backlog (including new facilities).* *Requires "supportable space allocation" to be defined under the negotiated rulemaking provided in Title VIII of this Act.* *Allows maintenance and improvement funds to be used to replace a facility when it is not economically feasible to repair the facility. The threshold, such as 80% of replacement costs, is to be determined by rulemaking.*
TRIBAL MANAGEMENT OF FEDERALLY-OWNED QUARTERS **Sec. 315 .** (a)(1) Notwithstanding any other provision of law, an Indian Tribe or tribal organization which operates a hospital or other health facility and the federally-owned quarters associated therewith pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act shall have the authority to establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority. (2) In establishing rental rates pursuant to authority of this subsection, an Indian Tribe or tribal organization shall endeavor to achieve the following objectives – (A) to base such rental rates on the reasonable value of the quarters to the occupants thereof, and (B) to generate sufficient funds to prudently provide for the operation	*This is a new section. Tribes operating health care facilities under the Indian Self-Determination and Education Assistance Act may manage associated federally-owned quarters, including setting rental rates for all occupants of such quarters and collecting rents directly from occupants who are federal employees.*

and maintenance of the quarters, and, subject to the discretion of the Indian Tribe or tribal organization, to supply reserve funds for capital repairs and replacement of the quarters.

(3) Any quarters whose rental rates are established by an Indian Tribe or tribal organization pursuant to authority of this subsection shall remain eligible for quarters improvement and repair (QI&R) funds to the same extent as all federally-owned quarters used to house personnel in IHS-supported programs;

(4) An Indian Tribe or tribal organization which exercises the authority provided under this subsection shall provide occupants with no less than 60 days notice of any change in rental rates.

(b)(1) Notwithstanding any other provision of law, and subject to paragraph (2) hereof, an Indian Tribe or a tribal organization which operates federally-owned quarters pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act shall have the authority to collect rents directly from federal employees who occupy such quarters in accordance with the following:

(A) the Indian Tribe or tribal organization shall notify the Secretary and the subject federal employees of its election to exercise its authority to collect rents directly from such federal employees;

(B) upon receipt of a notice described in (A), the federal employees shall pay rents for occupancy of such quarters directly to the Indian Tribe or tribal organization and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise;

(C) such rent payments shall be retained by the Indian Tribe or tribal organization and shall not be made payable to or otherwise be deposited with the United States; and

(D) such rent payments shall be deposited into a separate account which shall be used by the Indian Tribe or tribal organization for the maintenance (including capital repairs and replacement) and operation of the quarters and facilities as the Indian Tribe or tribal organization shall determine.

(2) If an Indian Tribe or tribal organization which has made an election under paragraph (1) hereof requests retrocession of its authority to directly collect rents from federal employees occupying federally-owned quarters, such retrocession shall become effective on the earlier of—

(A) the first day of the month that begins no less than 180 days after the Indian Tribe or tribal organization notifies the Secretary of its desire to retrocede; or

(B) such other date as may be mutually agreed by the Secretary and the Indian Tribe or tribal organization.

(c) To the extent that an Indian Tribe or tribal organization, pursuant to authority granted in subsection (a) hereof, establishes rental rates for federally-owned

quarters provided to a federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.	
APPLICABILITY OF BUY AMERICAN REQUIREMENT **Sec. 316 ~~310~~.** (a) The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section ~~309~~ 318, provided that Indian Tribes and tribal organizations shall be exempt from these requirements. ~~(b) The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds provided pursuant to the authorization contained in section 309. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.~~ ~~(c)~~(b) If it has been finally determined by a court or federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 309, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of federal Regulations. ~~(d)~~(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes,"~~;~~ approved March 3, 1933 (41 U.S.C. 10a et seq.).	

OTHER FUNDING FOR FACILITIES **Sec. 317.** Notwithstanding any other provision of law, (a) the Secretary is authorized to accept from any source, including federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design and construct health care facilities for Indians and to place such funds into funding agreements authorized under the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450f et seq., between the	*Gives IHS the ability to use funding from other sources to address the need for health care facility construction similar to the provision in section 302relating to construction of sanitation facilities.*

Secretary and an Indian Tribe or tribal organization, provided that receipt of such funds shall have not an effect on the priorities established pursuant to section 301. (b) the Secretary is authorized to enter into interagency agreements with other federal agencies or State agencies and other entities and to accept funds from such federal or State agencies or other sources to provide for the planning, design and construction of health care facilities to be administered by the Service or by Indian Tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act in order to carry out the purposes of this Act, together with the purposes for which such funds are appropriated to such other federal department or State agency or for which the funds were otherwise provided. (c) any federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other federal agency. (d) the Secretary, through the Service, shall establish standards by regulation, developed by rulemaking under Section 802, for the planning, design and construction of health care facilities serving Indians under this Act.	
Sec. 318 ~~309~~. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2012 ~~2000~~ to carry out this title.	*Appropriations are authorized through 2012.*

TITLE IV – ACCESS TO HEALTH SERVICES

Introductory Comments

1. *The Congress has chosen to respond to its special obligation to Indians in part by providing direct appropriations to fund the Indian Health Service (IHS), Tribes, tribal organizations, and urban Indian organizations and in part by authorizing the IHS, Tribes and tribal organizations to bill Medicare, Medicaid and Child Health Insurance Program (CHIP). This draft is intended to remove limitations on the latter so that Indian health programs can take maximum advantage of this funding stream. The Indian health system remains so underfunded, and there continue to be severe health status deficiencies a mong American Indians and Alaska Natives.*

2. *The objectives of these amendments are intended to:*

C maximize recovery from all third-party coverages, including Medicaid, Medicare, and CHIP and any new federally funded health care programs;

C ensure that American Indians and Alaska Natives have access to culturally competent care provided by the Indian Health Service, Tribes and tribal organizations, and urban Indian organizations, and therefore are not assigned without their approval to non-Indian managed care plans; and

C ensure that when services are provided by an Indian health program that the full cost of providing the service will be made available.

3. *References to "facilities" have generally been deleted in favor of "programs" so that home - and community-based services and other non-facility based services will be reimbursed. This will ensure reimbursement for Medicare Part B services and eliminate ambiguity about Medicaid coverage.*

4. *Ongoing, meaningful consultation between the Health Care Financing Administrat ion and Indian health programs and between State Medicaid programs and Indian health programs is critical to ensuring that the principles set forth above are honored.*

5. *Those sections of this Title that can be accomplished without amendment to the Social Security Act are at the front part of*

the Title; those that will probably require such amendment are at the end.	
Drafting Note: *Many sections of this Title can only be implemented by amendment to the Social Security Act. Earlier amendments to the Soci al Security Act that were specific to Indian programs have been accomplished through amendments to the Indian Health Care Improvement Act. In this proposed bill many of the needed amendments to the Social Security Act have been identified, however it is expected that additional amendments to other sections of the Social Security Act in order to implement the intent of the amendment described or made in this draft. In some other instances, the specific section of the Social Security Act that will have to b e amended has not been identified. In these instances, we have simply noted in the Comment column that such an amendment will be needed.*	
TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM **SEC. 401.** (a) Any payments received by ~~a hospital or skilled nursing facility of~~ the Service ~~(whether operated by the Service~~ or by an Indian Tribe, ~~or~~ tribal organization or tribal organization pursuant to a funding agreement ~~contract~~ under the Indian Self-Determination and Education Assistance Act) or by an urban Indian organization pursuant to title V of this Act for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians. (b) Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.	*Makes the IHS and Tribes and tribal organizations eligible for Medicare reimbursement for all services for which Medicare otherwise pays; extends these rights clearly to self-governance programs; and continues the assurance that such payments will not be considered during the appropriations process.*
(c) ~~Sec. 1880(c)~~ Notwithstanding any other provision of this title or of Title XVIII of the Social Security Act, payments to which ~~any hospital or skilled nursing~~ facility of the ~~Indian Health~~ Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and first used ~~by him~~ (to such extent or in such amounts as are provided in appropriation Acts) ~~exclusively~~ for the purpose of making any improvements in the programs ~~hospitals and skilled nursing facilities~~ of the ~~such~~ Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of this title and of Title XVIII of the Social Security Act. Any funds to be reimbursed which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with Tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian Tribes. This paragraph ~~The preceding sentence~~ shall not ~~cease to~~ apply ~~when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements~~ upon the election of an Indian Tribe or tribal organization under section 405 of the Indian Health Care Improvement Act to receive payments directly.	*This language before amendment was Section 1880(c) of the Social Security Act. The NSC does not believe that provisions regarding the special fund need to be in the Social Security Act. Therefore, it has been moved here and Section 1880(c) is repealed by a separate provision of this draft.* *This amendment ties together with the amendment to section 405 under which all tribal health programs are permitted to bill and be reimbursed directly without the funds having to pass through the IHS special fund. The other changes are intended to give IHS more flexibility in how it uses third party revenue in its direct programs.*

TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM **SEC. 402.** (a) Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and first used ~~by him~~ (to such extent or in such amounts as are provided in appropriation Acts) ~~exclusively~~ for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of such title. Any payments which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with Tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian Tribes. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives 100 ~~at least 80~~ percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act. The subsection shall not apply to Indian Tribes and tribal organizations that elect under Section 405 to receive payments directly.	*Changed percentage from 80% to 100% that must be sent to the service unit. Also provided IHS with more flexibility in use of funds. The latter change parallels the change made to the similar Medicare provision. Need to ensure that the tribal consultation provided for in Title VIII will apply to these decisions by IHS. (Also see note to Section 401(c), Section 1880(c).)* *This amendment ties together with the amendment to section 405 under which all tribal health programs are permitted to bill and be reimbursed directly without the funds having to pass through the IHS special fund. No change is made regarding IHS operated facilities. If IHS believes it would benefit from amendment, it can propose that most appropriate to its own operation, provided that 100% of the funds are returned to the service unit that generated the collections.*
(b) Any payments received under section 1911 of the Social Security Act ~~by such facility~~ for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.	*This ensures that none of the services reimbursable under Medicaid will be considered in determining appropriations.*
(c) For provisions relating to the authority of certain Indian Tribes and tribal organizations to elect to directly bill for, and receive payment for, health care services provided by a hospital or clinic of such Tribes or tribal organizations and for which payment may be made under this title, see section 405 of the Indian Health Care Improvement Act.)	*This language is taken from S.406 which is pending before Congress.*
REPORT **Sec. 403.** (a) The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801, an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements through title XVIII and XIX of the Social Security Act, as amended. (b) If an Indian Tribe, or tribal organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an urban Indian organization receives funding from the Indian Health Service under Title V of the Indian	*The new subsection (b) is intended to permit IHS and HCFA to track receipts by tribal programs. It is in lieu of other reporting requirements proposed for those Tribes that receive direct payment. This represents the bare minimum in reporting.*

Health Care Improvement Act receives reimbursements or payments under Title XVIII (Medicare), Title XIX (Medicaid) or Title XXI (children's health insurance program) of the Social Security Act, such Indian Tribe, tribal organization, or urban Indian organization shall provide to the Service a list of each provider enrollment number (or other identifier) under which it receives payments.	
GRANTS TO AND FUNDING AGREEMENTS ~~CONTRACTS~~ WITH THE SERVICE, INDIAN TRIBES, TRIBAL ORGANIZATIONS AND URBAN INDIAN ORGANIZATIONS. **Sec. 404.** (a) The Secretary~~, acting through the Service,~~ shall make grants to or enter into funding agreements ~~contract~~ with Indian Tribes and tribal organizations to assist such organizations in establishing and administering programs on or near federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to– (1) enroll under section 1818 of part A and sections 1836 and 1837 of part B of title XVIII of the Social Security Act; (2) pay ~~monthly~~ premiums for coverage ~~due to financial need of such individual~~; and (3) apply for medical assistance provided pursuant to title XIX (medicaid) and XXI (children's health insurance program) of the Social Security Act. (b) The Secretary~~, acting through the Service,~~ shall place conditions as deemed necessary to effect the purpose of this section in any funding agreement ~~contract~~ or grant which the Secretary makes with any Indian Tribe or tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to– (1) determine the population of Indians to be served that are or could be recipients of benefits under titles XVIII, ~~and~~ XIX and XXI of the Social Security Act; (2) assist individual Indians in becoming familiar with and utilizing such benefits; (3) provide transportation to such individual Indians to the appropriate offices for enrollment or applications for medical assistance; (4) develop and implement-- (A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and (B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII, ~~and~~ XIX and XXI of the Social Security Act.	*Reauthorize with amendments consistent with other sections discussed herein. By deleting "acting through the Service," any agency of the Department could enter into an agreement with a Tribe or tribal organization. Adds references to CHIP (Title XXI of the Social Security Act).*
(c) The Secretary~~, acting through the Service,~~ may enter into an agreement with an Indian Tribe, tribal organization, or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act and benefits under title XVIII and XXI of the Social Security Act by ~~at~~ a Service facility or a health care program ~~facility~~ administered by such Indian Tribe, tribal organization or urban Indian organization pursuant to a funding agreement	*This amendment ensures reimbursement for outreach, education regarding eligibility and benefits and translation.* *Report language (or further*

~~contract~~ under the Indian Self-Determination and Education Assistance Act or a grant or contract entered into with an urban Indian organization under title V of this Act. Notwithstanding any other provision of law, such agreements shall provide for reimbursement of the cost of outreach, education regarding eligibility and benefits, and translation when such services are provided. The reimbursement may be included in an encounter rate or be made on a fee for service basis as appropriate for the provider. When necessary to carry out the terms of this section, the Secretary, acting through the Health Care Financing Administration or the Service, may enter into agreements with a State (or political subdivision thereof) to facilitate cooperation between the State and the Service, Indian Tribe or tribal organization. (d) (1) The Secretary shall make grants or enter into contracts with urban Indian organizations to assist such organizations in establishing and administering programs to assist individual urban Indians to: (A) enroll under section 1818 of part A and sections 1836 and 1837 of part B of title XVIII (Medicare) of the Social Security Act; (B) pay premiums on behalf of such individuals for coverage under title XVIII of the Social Security Act; and (C) apply for medical assistance provided under title XIX (Medicaid) of the Social Security Act and for child health assistance under title XXI (Child Health Insurance Program) of the Social Security Act. (2) The Secretary shall include in the grants or contracts made or entered into under paragraph (1) requirements that are: (A) consistent with the requirements imposed by the Secretary under subsection (b); (B) appropriate to urban Indian organizations and urban Indians; and (C) necessary to effect the purposes of this section.	*amendment) should strongly support tribal participation in outreach and eligibility determination (without making the latter mandatory.) There may be other sections of the Social Security Act that should be amended to strengthen the right of Tribes to be paid for such activities.* *The new (d) extends the application of this section to urban Indian organizations.* *The reimbursements under (c) probably will have to be in the Social Security Act and are intended to be subject to 100% FFP or FMAP, which ever is appropriate. Appropriate amendment to the SSA will need to be drafted.*
~~DEMONSTRATION PROGRAM FOR~~ DIRECT BILLING AND REIMBURSEMENT **OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS** **Sec. 405. (a) DIRECT BILLING.—** **(1) IN GENERAL.—**An Indian Tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act) may directly bill for, and receive payment for, health care services provided by such health program for which payment is made under title XVIII of the Social Security Act [42 U.S.C. § 1395 et seq.] (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] (medicaid), under a State's children's health insurance plan approved under title XXI of the Social Security Act [42 U.S.C. § 1397aa et seq.] or from any other third party payor. **(2) APPLICATION OF 100 PERCENT FMAP.—**The third sentence of section 1905(b) of the Social Security Act (42 USC § 1396d(b)) and the second sentence of section 2101(c) of the Social Security Act (42 U.S.C. § 1397aa(c)) shall apply for	*Repeal and reenact Section 405 (25 U.S.C. § 1645). This reenacted provision allows Tribes and tribal organizations to be paid directly for Medicare, Medicaid and CHIP services without funds having to go through the IHS' special fund. It leaves the special fund in effect for the IHS. Currently and in a bill pending before the Congress, S. 406, Tribes that receive direct payment under this section are required to make reports to the IHS. In lieu of such a reporting requirement as a condition of direct payment, a new*

purposes of reimbursement under the medicaid or children's health insurance program for health care services directly billed under the program established under this section.

(b) DIRECT REIMBURSEMENT.—

(1) USE OF FUNDS.—Each Indian Tribe or tribal organization exercising the option described in subsection (a) of this section shall be reimbursed directly under the medicare, medicaid and children's health insurance programs for services furnished, without regard to the provisions of sections 1880(c) of the Social Security Act (42 U.S.C. § 1395qq(c)) and section 402(a) of this title, but all funds so reimbursed shall first be used by the health program for the purpose of making any improvements in the facility or health programs that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to such health services under the medicare, medicaid or children's health insurance program. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions or requirements shall be used to provide additional health services, improvements in its health care facilities, or otherwise to achieve the health objectives provided for under section 3 of this Act.

(2) AUDITS.— The amounts paid to the health programs exercising the option described in subsection (a) of this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare, medicaid and children's health insurance programs.

(3) NO PAYMENTS FROM SPECIAL FUNDS.— Notwithstanding section 1880(c) of the Social Security Act (42 U.S.C. § 1395qq(c)) or section 402(a) of this title, no payment may be made out of the special fund described in section 1880(c) of the Social Security Act (42 U.S.C. § 1395qq(c)), or section 402(a) of this title, for the benefit of any health program exercising the option described in subsection (a) of this section during the period of such participation.

(c) EXAMINATION AND IMPLEMENTATION OF CHANGES.—The Secretary, acting through the Service, and with the assistance of the Administrator of the Health Care Financing Administration, shall examine on an ongoing basis and implement any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this section, including any agreements with States that may be necessary to provide for direct billing under the medicaid or children's health insurance program.

(d) WITHDRAWAL FROM PROGRAM.— A participant in the program established under this section may withdraw from participation in the same manner and under the same conditions that an Indian Tribe or tribal organization may retrocede a contracted program to the Secretary under authority of the Indian Self-Determination and Education Assistance Act (25 USC § 450 et seq.) All cost accounting and billing authority under the program established under this section shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

~~Sec. 405. (a) The Secretary shall establish a demonstration program under which Indian Tribes, tribal organizations, and Alaska Native health organizations, which are contracting the entire operation of an entire hospital or clinic of the Service under~~

requirement has been added that requires all Tribes and tribal organizations receiving funding under the Indian Self-Determination and Education Assistance Act to report to IHS all Medicare, Medicaid and CHIP provider enrollment numbers. With that information, IHS and HCFA can generate the information they need for budgeting and other purposes.

~~the authority of the Indian Self-Determination Act, shall directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under title XVIII of the Social Security Act (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act (medicaid), or from any other third-party payor. The last sentence of section 1905(b) of the Social Security Act shall apply for purposes of the demonstration program.~~

~~(b)(1) Each hospital or clinic participating in the demonstration program described in subsection (a) shall be reimbursed directly under the medicare and medicaid programs for services furnished without regard to the provisions of section 1880(c) of the Social Security Act and sections 402(a) and 813(b)(2(A) of this Act, but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds to reimbursed which are in excess of the amount necessary to achieve or maintain such conditions requirements shall be used~~

~~(A) solely for improving the health resources deficiency level of the Indian Tribe, and~~

~~(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act.~~

~~(2) The amounts paid to the hospitals and clinics participating in the demonstration program described in subsection (a) shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs.~~

~~(3) The Secretary shall monitor the performance of hospitals and clinics participating in the demonstration program described in subsection (a), and shall require such hospitals and clinics to submit reports on the program to the Secretary on a quarterly basis (or more frequently if the Secretary deems it necessary).~~

~~(4) Notwithstanding section 1880(c) of the Social Security Act or section 402(c) of this Act, no payment may be made out of the special fund described in section 1880(c) of the Social Security Act, or section 402(c) of this Act for the benefit of any hospital or clinic participating in the demonstration program described in subsection (a) during the period of such participation.~~

~~(c)(1) In order to be considered for participation in the demonstration program described in subsection (a), a hospital or clinic must submit an application to the Secretary which establishes to the satisfaction of the Secretary that~~

~~(A) The Indian Tribe, tribal organization, or Alaska Native health organization contracts the entire operation of the Service facility;~~

~~(B) The facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act;~~

~~(C) The facility meets any requirements which apply to the programs operated directly by the Service; and~~

~~(D) The facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1990.~~

~~(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1989, select no more than 4 facilities to participate in the demonstration program described in subsection (a). The demonstration program described in subsection (a) shall begin by no later than October 1, 1991, and end September 30, 2000.~~

~~(d)(1) Upon the enactment of the Indian Health Care Amendments of 1988, the Secretary, acting through the Service, shall commence an examination of~~

~~(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstration program described in subsection(a),including any agreements with States which may be necessary to provide for such direct billing under the medicaid program; and~~

~~(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Service medical records information on patients served by such demonstration program which is consistent with the medical records information system of the Service.~~

~~(2) Prior to the commencement of the demonstration program described in subsection (a), the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1).~~

~~(3) Prior to October 1, 1990, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) would be required to report.~~

~~(e) The Secretary shall submit a final report at the end of fiscal year 1996, on the activities carried out under the demonstration program described in subsection (a) which have fulfilled the objectives of such program. In such report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing or, and reimbursement by, the medicare and medicaid programs and other third-party payors should be authorized for all Indian Tribes and Alaska Native Health organizations which are contracting the entire operation of a facility of a Service.~~

~~(f) The Secretary shall provide for the retrocession of any contract entered into between a participant in the demonstration program described in subsection (a) and the Service under the authority of the Indian Self-Determination Act. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.~~

REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES

SEC. 406 ~~206.~~ (a) Except as provided in subsection (g) ~~(f)~~, the United States, an Indian Tribe or tribal organization shall have the right to recover the reasonable charges billed or expenses incurred by the Secretary, an Indian Tribe or tribal organization in providing health services, through the Service, an Indian Tribe or tribal organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if–

(1) such services had been provided by a nongovernmental provider, and

(2) such individual had been required to pay such charges or expenses and did pay such expenses.

(b) Except as provided in subsection (g), an urban Indian organization shall have the right to recover the reasonable charges billed or expenses incurred by the organization in providing health services to any individual to the same extent that such individual, or any other nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if such individual had been required to pay such charges or expenses and did pay such charges or expenses.

(c) ~~(b)~~ Subsections (a) and (b) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under–

(1) workers' compensation laws, or

(2) a no-fault automobile accident insurance plan or program.

(d) ~~(c)~~ No law of any State, or of any political subdivision of a State and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States, an Indian Tribe, or tribal organization under subsection (a) or an urban Indian organization under section (b).

(e) ~~(d)~~ No action taken by the United States, an Indian Tribe, or tribal organization to enforce the right of recovery provided under subsection (a), or by an urban Indian organization to enforce the right of recovery provided under subsection (b), shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

(f) ~~(e)~~ The United States, an Indian Tribe, or tribal organization, may enforce the right of recovery provided under subsection (a), and an urban Indian organization may enforce the right of recovery provided under subsection (b), by–

(1) intervening or joining in any civil action or proceeding brought–

(A) by the individual for whom health services were provided by the Secretary, an Indian Tribe, ~~or~~ tribal organization, or urban Indian organization or

As amended this section, which was moved from Title II, tries to close loopholes that may exist in efforts to force insurance companies to pay Indian health programs for services they provide.

The new (b) extends this section to urban Indian organizations.

(B) by any representative or heirs of such individual, or (2) instituting a ~~separate~~ civil action. All reasonable efforts shall be made to provide notice of such action to the individual to whom health services were provided, either before or during the pendency of such action. ~~, after providing such individual, or to the representative or heirs of such individual, notice of the intention of the United States, an Indian Tribe, or tribal organization to institute a separate civil action.~~	
(g) ~~(f)~~ Absent specific written authorization by the governing body of an Indian Tribe for the period of such authorization which may not be for a period of more than one year, and which may be revoked at any time upon written notice by the governing body to the Service, ~~T~~ the United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian Tribe, ~~or~~ tribal organization or urban Indian organization. However, where such tribal authorization is provided, the Service may receive and expend such funds for the provision of additional health services.	*Some tribal self-insurance plans already make voluntary payments, however OGC has issued an opinion that such payments may not be permissible without authority. This amendment is intended to be the narrowest possible "fix" to that problem. It is not intended to compromise in any way the federal obligation to provide health care to Indians without cost to them or their Tribes.*
(h) In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded its reasonable attorneys fees and costs of litigation. (i) Where an insurance company or employee benefit plan fails or refuses to pay the amount due under (a) of this section for services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the United States, Indian Tribe, or tribal organization shall have a right to assert and pursue all the claims and remedieis against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable federal, State or tribal law. (j) Where an insurance company or employee benefit plan fails or refuses to pay the amounts due under subsection (b) for health services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the urban Indian organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable federal or State law.	
(k) Notwithstanding any other provision in law, the Service, an Indian Tribe, tribal organization or an urban Indian organization shall have a right of recovery for any otherwise reimbursable claim filed on a current HCFA-1500 or UB-92 form, or the current NSF electronic format, or their successors. No health plan shall deny payment because a claim has not been submitted in a unique format that differs from such forms.	*This new subsection is intended to prevent imposition of unique claims filing requirements.*
CREDITING OF REIMBURSEMENTS **SEC. 407 ~~207~~.** (a) Except as provided in section 202(d), this title and section 807 ~~813~~ of this Act, all reimbursements received or recovered, under authority of this Act, Public Law 87-693 (42 U.S.C. § 2651, et seq.), or any other provision of law, by reason of the provision of health services by the Service or by an Indian Tribe or tribal organization under a funding agreement ~~contract~~ pursuant to the Indian Self-	

Determination and Education Assistance Act or by an urban Indian organization funded under title V shall be retained by the Service or that Tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that Tribe or tribal organization to provide health care services to Indians. (b) The Service may not offset or limit the amount of funds obligated to any service unit or entity receiving funding from ~~under contract with~~ the Service because of the receipt of reimbursements under subsection (a).	
PURCHASING HEALTH CARE COVERAGE ~~MANAGED CARE~~ **SEC. 408 ~~210~~.** ~~(a)~~ Tribes, tribal organizations and urban Indian organizations are authorized to utilize funding from the Secretary under this Act to purchase managed care coverage for IHS beneficiaries (including authority to purchase insurance to limit the financial risks of such entities.) ~~(b) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing an Indian Tribe to purchase, directly or through the Service, managed care coverage for all members of the Tribe~~ from– (1) a tribally owned and operated managed care plan; ~~or~~ (2) a State or locally-authorized or licensed managed care plan or (3) health insurance provider. ~~(bc) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing~~ ~~(1) a detailed description of the any study conducted pursuant to this section; and~~ ~~(2) a discussion of the findings and conclusions of any such study.~~	*Subsection (a) is a revision of former section 210. All of the rest is new and is intended to ensure that managed care plans must reimburse I/T/Us for the services they provide.* ***NOTE to DRAFTERS:*** *The NSC intent is that for the purposes of this section, "managed care" be defined as broadly as possible to ensure maximum protection for tribal interests.* *The parenthetical note at the end of the introductory text of (a) is intended to generally authorize Tribes and tribal organizations to purchase indemnity insurance using IHS funds. This is necessary to overcome an OGC opinion that indicates such expenditures are not allowed.*
INDIAN HEALTH SERVICE, ~~AND~~ DEPARTMENT OF VETERAN'S AFFAIRS, AND OTHER FEDERAL AGENCY HEALTH FACILITIES AND SERVICES SHARING **Sec. 409 ~~816~~.** (a) The Secretary shall examine the feasibility of entering into ~~an~~ arrangements or expanding existing arrangements for the sharing of medical facilities and services between the Indian Health Service and the Veterans' Administration, and other appropriate federal agencies, including those within the Department, and shall, in accordance with subsection (b), prepare a report on the feasibility of such an arrangement and submit such report to the Congress by no later than September 30, ~~1990~~ 2000, provided that the Secretary may not finalize any such agreement without first consulting with the affected Indian Tribes. (b) The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair– (1) the priority access of any Indian to health care services provided through the Indian Health Service;	*This section is intended to assure that the IHS is the payor of last resort vis-a-vis VA and to permit additional sharing of facilities and other resources.*

(2) the quality of health care services provided to any Indian through the Indian Health Service; (3) the priority access of any veteran to health care services provided by the Veterans' Administration; (4) the quality of health care services provided to any veteran by the Veteran's Administration; (5) the eligibility of any Indian to receive health services through the Indian Health Service; or (6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration provided, however, the Service, the Indian Tribe or tribal organization shall be reimbursed by the VA where services are provided through the Service, Indian Tribes or tribal organizations to beneficiaries eligible for services from the VA, notwithstanding any other provision of law.	
(c)~~(1) Within 30 days after the date of enactment of this section, the Director of the Indian Health Service and the Administrator of Veterans' Affairs are authorized and directed to implement an agreement which~~ ~~(A) individuals in the vicinity of Roosevelt, Utah, who are eligible for health care from the Veterans' Administration could obtain health care services at the facilities of the Indian Health Service located at Fort Duchesne, Utah; and~~ ~~(B) individuals eligible for health care from the Indian Health Service at Fort Duchesne, Utah, could obtain health care services at the Veterans' Administration medical center located in Salt Lake City, Utah.~~ ~~(2) Not later than 2 years after the date of enactment of this section, the Secretary and the Administrator of Veterans' Affairs shall jointly submit a report to the Congress on the health care services provided as a result of paragraph (1).~~	*IHS consulted with the Uintay & Ouray tribal Business Council regarding this subsection. The Tribe and the service unit Director agree it should be deleted. The circumstances that triggered its inclusion have changed.*
~~(d)~~ The Director is authorized to enter into agreements with other federal agencies to assist in achieving parity in services for Indians. Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Indian Health Service ~~except as provided in an agreement under subsection (c)~~.	*In the last sentence, the last clause was deleted because the former (c) provisions re: Fort Duchesne were deleted.*
PAYOR OF LAST RESORT **Sec. 410.** The Indian Health Service, and programs operated by Tribes, tribal organizations, or urban Indian organizations shall be the payor of last resort for services provided to persons eligible for services from these programs, notwithstanding any federal, state or local law to the contrary, unless such law explicitly provides otherwise.	*Since the federal responsibility to Indian people is unique, the programs of the IHS, Tribes, tribal organizations and urban Indian organizations should always be entitled to recover for services they provide to persons eligible for coverage under some other federal, state, or local health care program, notwithstanding payor of last resort provisions they may have. Specifically, the IHS should be residual to*

	VA, DOD, Medicare, Medicaid, CHIP and Ryan White Act funding.
RIGHT TO RECOVER FROM FEDERAL HEALTH CARE PROGRAMS **Sec. 411.** Notwithstanding any other provision of law, the Indian Health Service, Indian Tribes, tribal organizations and urban Indian organizations (notwithstanding limitations on who is eligible to receive services from such entity) shall be entitled to receive payment or reimbursement for services provided by such entities from any federally funded health care program, unless there is an explicit prohibition on such payments in the applicable authorizing statute.	*This new subsection is intended to make sure that if there are new federally funded health care programs that the IHS, Tribes, tribal organizations, and urban Indian organizations will be eligible to receive payments from them.* *The "notwithstanding" clause is intended to ensure that "anti-discrimination clauses" in various federally funded programs are not used to prevent payments to the I/T/U.* ***This should be added to other sections of law or a new freestanding provision be added, as needed to achieve this objective.***
TUBA CITY DEMONSTRATION PROJECT **Sec. 412.** Notwithstanding any other provision of law, including the Anti-Deficiency Act, provided the Indian Tribes to be served approve, the Service in the Tuba City Service Unit is authorized to enter into a demonstration project with the State of Arizona under which the Service would provide certain specified Medicaid services to IHS/Medicaid eligibles in return for payment on a capitated basis from the State of Arizona and is authorized to purchase insurance to limit its financial risks under this project. This project may be extended to other service units in Arizona, subject to the approval of the Indian Tribes to be served in such service units, the Service and the State of Arizona.	*This demonstration project, has been developed collaboratively by the Navajo Nation, the IHS and the State of Arizona to be carried out by IHS. It permits the IHS to act as an MCO in Arizona.*
ACCESS TO FEDERAL INSURANCE **SEC. 413.** Notwithstanding the provisions of title 5, United States Code, executive order, or administrative regulation, an Indian Tribe or tribal organization carrying out programs under the Indian Self-Determination and Education Assistance Act or an urban Indian organization carrying out programs under title V of this Act shall be entitled to purchase coverage, rights and benefits for the employees of such Indian Tribe, tribal organization, or urban Indian organization under Title 89 of Title V (health insurance) and title 87 of Title V (life insurance) if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian Tribe, tribal organization or urban Indian organization are currently deposited in the applicable Employee's Fund under title 5, United States Code.	*This new provision is intended to permit tribal and urban Indian programs to purchase health and life insurance for their direct hire employees through the federal insurance plans. For Indian Tribes andtl organizations it may be most appropriate to amend the Indian Self-Determination Act to accomplish this.*
CONSULTATION AND RULEMAKING **Sec. 414. (a) CONSULTATION.** Prior to the adoption of any policy or regulation by the Health Care Financing Administration, the Secretary shall it to –	*This section is intended to ensure that HCFA provides meaningful consultation, which requires that it first analyze the impact of its proposed action*

(1) identify the impact such policy or regulation may have on the Service, Indian Tribes, tribal organizations and urban Indian organizations; (2) provide to the Service, Indian Tribes, tribal organizations and urban Indian organizations the information described in paragraph (1); (3) engage in consultation with the Service, Indian Tribes, tribal organizations and urban Indian organizations prior to enacting any such policy or regulation. Such consultation shall be consistent with the requirements of Executive Order 13084 of May 14, 1998.	*impact of its proposed action on the Indian health system, and limits HCFA's authority to adopt rules regarding the matters covered by this title except through negotiated rulemaking.*
(b) RULEMAKING. The Health Care Financing Administration shall participate in the negotiated rulemaking provided for under Title VIII of this Act with regard to any regulations necessary to implement the provisions of this Title IV that relate to the Social Security Act.	
LIMITATIONS ON CHARGES **Sec. 415.** (a) Section 1866(a)(1) of the Social Security Act, 42 U.S.C. § 1395cc(a)(1), is amended to add a new paragraph (T), as follows: (T) in the case of hospitals and critical access hospitals which provide inpatient hospital services for which payment may be made under this title, to accept as payment in full for services that are covered under and furnished to an individual eligible for the contract health services program operated by the Indian Health Service, by an Indian Tribe or tribal organization or furnished to an urban Indian eligible for health services purchased by an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), in accordance with such admission practices, and such payment methodology and amounts, as are prescribed under regulations issued by the Secretary in implementation of such section. (b) No provider of health services that is eligible to receive payments or reimbursements from under Titles XVIII, XIX, or XXI of the Social Security Act or from any federally funded (whether in whole or part) health care program may seek to recover payment for services– (1) that are covered under and furnished to an individual eligible for the contract health services program operated by the Indian Health Service, by an Indian Tribe or tribal organization or furnished to an urban Indian eligible for health services purchased by an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), an amount in excess of the lowest amount paid by any other payor for comparable services; or (2) for examinations or other diagnostic procedures that are not medically necessary if such procedures have already been performed by the referring Indian health program and reported to the provider.	*(a) is part of the Expedited Provisions endorsed by the NSC and is intended to apply the protections available to the Veteran's Administration to Indian health programs when they purchase hospital services.* *(b)(1) is intended to create a "most favored nation" clause regarding purchasing services from other provider types. It does not cap the charges at Medicare levels (as (a) does), but requires no charge higher than that charged to the most preferred customer.* *(b)(2) is intended to prevent non-medically necessary, duplicative procedures being required and billed to Indian health programs.*
AMENDMENTS TO MEDICARE **Sec. 416.** Section 1880 of the Social Security Act is amended, as follows:	*The actual authority for receipt of Medicare payments is found in Sec. 1880 of the Social Security Act (SSA), 42 U.S.C. § 1395qq. It was originally amended through the IHCIA. We propose amendment through the same vehicle.*

INDIAN HEALTH PROGRAMS ~~SERVICE FACILITIES~~ **Sec. 1880.** (a) ~~A hospital or skilled nursing facility of t~~ The Indian Health Service and ~~, whether operated by such Service or by~~ an Indian Tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets ~~all of~~ the conditions and requirements for such payments which are applicable generally to the service or provider type for which it seeks payment ~~hospitals or skilled nursing facilities (as the case may be)~~ under this title and for services and provider types provided by a qualified Indian health program under section 1880A.	*Makes the IHS and Tribes and tribal organizations eligible for Medicare reimbursement for all services for which Medicare otherwise pays and extends these rights clearly to self-governance programs. This will cover Part B services currently excluded. It also provides for payment under the newly proposed "qualified Indian health program," which is described in the new section 1880A.*
(b) Notwithstanding subsection (a), if ~~a hospital or skilled nursing facility of~~ the Indian Health Service or an Indian Tribe, tribal organization or urban Indian organization, ~~which~~ does not meet all of the conditions and requirements of this title which are applicable generally to such service or provider type ~~hospitals or skilled nursing facilities (as the case may be), but which~~ submits to the Secretary within six months after the date on which it first sought reimbursement for the service or provider type ~~of enactment of this section~~ an acceptable plan for achieving compliance with such conditions and requirements, it shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.	*Provides an eighteen month window in which the Indian health program may bill and receive payment before it must meet the applicable program requirements. Although this would rarely be needed for hospitals or clinics, many Indian health programs have lacked a reasonable opportunity to fully develop other health programs. This provides that opportunity.*
(c) For provisions relating to the authority of certain Indian Tribes and tribal organizations to elect to directly bill for, and receive payment for, health care services provided by a hospital or clinic of such Tribes or tribal organizations and for which payment may be made under this title, see section 405 of the Indian Health Care Improvement Act. ~~Notwithstanding any other provision of this title, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and first used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of the such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. The preceding sentence shall not cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.~~	*The provisions regarding the special fund do not need to be in the Social Security Act. The special fund is established in section 401(c), therefore, the current text of section 1880(c) of the Social Security Act is deleted. Text copied from S. 406, which is currently pending before Congress has been added.*
~~(d) The annual report of the Secretary which is required by section 701 [now 801] of the Indian Health Care Improvement Act shall include (along with the matters specified in section 403 of such Act) a detailed statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this title and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) and otherwise) toward the achievement of such compliance.~~	*IHS indicates this report is duplicative of other reports that they produce.*
(d) The Indian Health Service, an Indian Tribe or tribal organization providing a	*This new subsection provides*

service otherwise eligible for payment under this section through the use of a community health aide or practitioner certified under the provisions of section 121 of the Indian Health Care Improvement Act (25 U.S.C. § 1616l) shall be paid for such services on the same basis that such services are reimbursed under State Plans approved under Title XIX of the Social Security Act.	*Medicare payments for the CHAP program in Alaska. If the CHR program is expanded to be modeled more like the CHAP program, this section could be amended to cover CHRs, also.*
(e) Notwithstanding any other provision of law, a health program operated by the Indian Health Service, an Indian Tribe or tribal organization, which collaborates with a hospital operated by the Indian Health Service or an Indian Tribe or tribal organization, shall, at the option of the Indian Tribe or tribal organization, be paid for services for which it would otherwise be eligible under Section 1880 of the Social Security Act (42 USC § 1395qq) as if it were an outpatient department of the hospital. In situations where the health program is on a separate campus from the hospital, billing as an outpatient department of the hospital shall not subject such a health program to the requirements of section 1867 (42 U.S.C. § 1395dd) [the Emergency Medical Treatment and Active Labor Act].	*To the extent that an IHS or tribal clinic continues to need to be part of an IHS or tribal hospital to bill Medicare, this new section ensures that they are permitted to do so and that EMTALA does not apply to off-site programs. The latter should be unnecessary given the plain language of the EMTALA statute, but court rulings have been inconsistent and HCFA has proposed rules that would expand the impact of EMTALA. HCFA could eliminate the need for this through regulations*
(f) The Indian Health Service, an Indian Tribe or tribal organization providing visiting nurse services in a Home Health Agency Shortage Area shall be paid for such services on the same basis that such services are reimbursed for other primary care providers.	*Currently available to federally Qualified Health Centers (FQHCs). Provides an opportunity to continue home health services if FQHC certification sunsets.*
(g) Notwithstanding any other provision of law, the Secretary shall have broad authority to identify and implement alternative methods of reimbursing Indian health programs for Medicare services provided to Indians, provided that the Indian Tribe, tribal organization or urban Indian organization may opt to receive reimbursement under reimbursement methodologies applicable to other providers of similar services, provided that the amount of reimbursement resulting under such alternative methodology shall not be less than 100 percent of the reasonable cost of the service to which the methodology applies under section 1861(v).	*The intention of this section is to authorize Indian program specific methodologies that are more appropriate for supporting the Indian Health System, providing for no less than 100 per cent of reasonable cost.*
Sec. 417. Title XVIII of the Social Security Act is amended by the addition of a new section 1880A, as follows: **QUALIFIED INDIAN HEALTH PROGRAM** **Sec. 1880A**. (a) A qualified Indian health program shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all the conditions and requirements set forth in this section. (b)(1)The term "qualified Indian health program" means a health program operated by– (A) the Indian Health Service;	*This new section creates a new provider type for Medicare and Medicaid and any other federally funded health care program, a "qualified Indian health program" or QIHP (pronounced "quip"). A QIHP is entitled to full cost recovery similar to that of FQHCs before the phasing out began **plus** indirect costs. A QIHP may include facility and non-facility based programs. It will*

(B) an Indian Tribe, tribal organization or urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act) and which is funded in whole or part by the Indian Health Service under the Indian Self Determination and Education Assistance Act; and

(C) an urban Indian organization (as that term is defined in section 4 of the Indian Health Care Improvement Act) and which is funded in whole or part under Title V of the Indian Health Care Improvement Act.

(2) A qualified Indian health program may include one or more hospitals, nursing homes, home health programs, clinics, ambulance services or other health programs providing a service for which payments may be made under this title and which is covered in the Medicare or Medicaid cost report for such qualified Indian health program.

(c)(1) Notwithstanding any other provision in the law, a qualified Indian health program shall be entitled to receive payment based on an all-inclusive rate which shall be calculated to provide full cost recovery for the cost of furnishing services provided under this section.

(2) The term "full cost recovery" shall mean–

(A) the direct costs, which are reasonable, adequate and related to the cost of furnishing such services, taking into account the unique nature, location and service population of the qualified Indian health program, and which shall include direct program, administrative and overhead costs, without regard to the customary or other charge or any fee schedule that would otherwise be applicable, plus

(B) indirect costs which for a qualified Indian health program operated by–

(i) an Indian Tribe or tribal organization for which an indirect cost rate (as that term is defined in section 4(g) of the Indian Self-Determination and Education Assistance Act) has been established or an urban Indian organization for which an indirect cost rate has otherwise been established shall be not less than an amount determined on the basis of the indirect cost rate; or

(ii) the Indian Health Service, an Indian Tribe, tribal organization or urban Indian organization for which no such rate has been established shall be not less than the administrative costs specifically associated with the delivery of the services being provided.

(C) Notwithstanding any other provision of law, the amount determined to be payable as full cost recovery may not be reduced for co-insurance, co-payments or deductibles when the service was provided to an Indian entitled under federal law to receive service from the Indian Health Service, an Indian Tribe or tribal organization, or an urban Indian organization or because of any limitations on payment provided for in any managed care plan.

(3) In addition to full cost recovery, a qualified Indian health program shall be entitled to reasonable outstationing costs, which shall include all administrative costs associated with outreach and acceptance of eligibility applications for any federal or

require a cost report to determine its rate.

Features of the QIHP are that it can use any licensed or certified provider to carry out services within the scope of that provider's practice even though ordinarily only a physician could perform the service for reimbursement and it may recover for certain preventive services and transportation costs. Rates are to be calculated by the most advantageous method available.

Many additional sections of the Social Security Act (Titles XVIII, XIX, and others) will have to be amended to take into account this new provider type. *Refinements will be made through additional consultation with other Tribes and tribal organizations, IHS, the State Medicaid agencies, and HCFA.*

The primary objective of creating this new provider type is to ensure that the federal responsibility for providing health services is not compromised by limiting reimbursement to an amount below actual cost, including indirect costs.

Full cost recovery is not unprecedented. States are allowed to charge 100% of actual costs for services that they deliver through direct State operated programs.

RE: (B) – Indirect costs. *There is no attempt to duplicate indirect costs. The objective is merely to make*

state health program including, but not limited to Medicare, Medicaid and the Children's Health Insurance Program.

(4) Costs identified for services addressed in a cost report submitted by the qualified Indian health program shall be used to determine an all-inclusive encounter or per diem payment amount for such services. Not all health programs provided or administered by the Indian Health Service, an Indian Tribe or tribal organization, or an urban Indian organization must be combined into a single cost report. A full cost recovery payment for services not covered by such cost report shall be made on a fee-for-service, encounter, or per diem basis.

(5) The full cost recovery rate provided for in paragraph (1) through (3) of this subsection may be determined, at the election of the qualified Indian health program, by the Health Care Financing Administration or by a State Medicaid agency and shall be valid for reimbursement made under Title XVIII (medicare), Title XIX (medicaid), and Title XXI (children's health insurance program) purposes. The costs described in subparagraph (A) of paragraph (2) shall be calculated under whatever methodology yields the greatest aggregate payment for the cost reporting period, provided that such methodology shall be adjusted to include adjustments to such payment to take into account for those qualified Indian health programs that include hospitals–

(A) a significant decreases in discharges;

(B) costs for graduate medical education programs;

(C) additional payment as a disproportionate share hospital with a payment adjustment factor of 10;

(D) payment for outlier cases;

(6) A qualified Indian health program may elect to receive payment for services provided under this section–

(A) on the full cost recovery basis provided in subsection (c)(1) - (5)

(B) on the basis of the inpatient or outpatient encounter rates established for Indian Health Service facilities and published annually in the federal Register;

(C) on the same basis as other providers are reimbursed under this title, provided that to this amount shall be added the amounts determined under subparagraph (B) of subsection (c)(2);

(D) on the basis of any other rate or methodology applicable to the Service, an Indian Tribe or tribal organization; or

(E) on the basis of any rate or methodology negotiated with the agency responsible for making payment.

(d) A qualified Indian health program may under this section provide and be reimbursed for any service the Indian Health Service, an Indian Tribe or tribal

sure that reimbursement takes into the full administrative costs of delivering services. A special provision was added to address IHS and those other Indian health programs without an indirect rate.

The definition of "full cost recovery" is fashioned after the former Boren Amendment. The intent of the "efficiency measure" is to prevent inclusion of costs for services beyond the scope of what should reasonably be provided in the particular setting (such as the cost of an orthopedic surgeon in an outpatient health clinic). It is not intended to be used to limit access to services in rural and remote sites. Numbers of encounters per health care provider were specifically rejected as the basis of the efficiency measure.

Under (c)(6), each Indian health provider will be given an option about which reimbursement methodology to rely upon and the list of options has been expanded.

organization or an urban Indian organization may be reimbursed under section 1880 for the Medicare program and section 1911 for the Medicaid program, provided that in either event such services may also include, at the election of the qualified Indian health program, (1) any service when furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service to the same extent that such service would be reimbursable if performed by a physician and any service or supplies furnished as incident to a physician's service as would otherwise be covered if furnished by a physician or as an incident to a physician's service; (2) screening, diagnostic and therapeutic outpatient services including, but not limited to, part-time or intermittent screening, diagnostic and therapeutic skilled nursing care and related medical supplies (other than drugs and biologicals), furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service for an individual in the individual's home or in a community health setting under a written plan of treatment established and periodically reviewed by a physician, when furnished to an individual as an outpatient of a qualified Indian health program; (3) preventive primary health services as described under sections 329, 330 and 340 of the Public Health Service Act, when provided by an employee of the qualified Indian health program who is licensed or certified to perform such a service, regardless of the location in which the service is provided; (4) for children, all services specified as part of the State Medicaid plan, Children's Health Insurance Program and EPSDT; (5) influenza and pneumococccal immunizations; (6) other immunizations for prevention of communicable diseases when targeted; and (7) the cost of transportation for providers or patients necessary to facilitate access for patients.	
MEDICAID FEDERALLY QUALIFIED HEALTH CENTER PAYMENTS **Sec. 418.** Section 1902(a)(13) of the Social Security Act is amended by adding the following: (D)(i) for payment for services described in clause (C) of section 1905(a)(2) under the plan furnished by an Indian Tribe, tribal organization or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) of 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on other tests of reasonableness as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which those regulations do not apply, the same methodology used under section 1833(a)(3).	***Social Security Act***
MEDICAID MANAGED CARE ORGANIZATION PAYMENTS TO FEDERALLY QUALIFIED HEALTH CENTERS **Sec. 419.** Section 1902(a)(13) of the Social Security Act is amended by adding the following:	

(D)(ii) in carrying out clause (i) in the case of services furnished by a federally-qualified health center that is operated by an Indian Tribe, tribal organization or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) pursuant to a contract between the center and an organization under section 1903(m), for payment to the center at least quarterly by the State of a supplemental payment equal to the amount (if any) by which the amount determined under clause (i) exceeds the amount of the payments provided under such contract.	
STATE CONSULTATION WITH INDIAN HEALTH PROGRAMS **Sec. 420.** Section 1902(a) of the Social Security Act is amended by the addition of a new paragraph (66), as follows: (66) if the Indian Health Service operates or funds health programs in the State or if there are Indian Tribes, tribal organizations or urban Indian organizations (as those terms are defined in Section 4 of the Indian Health Care Improvement Act) present in the State, provide for meaningful consultation with such entities prior to the submission of, and as a precondition of approval of, any proposed amendment, waiver, demonstration project or other request that would have the effect of changing any aspect of the State's administration of the Medicaid program, provided that "meaningful consultation" shall be defined through the negotiated rulemaking provided for under Section 802 of the Indian Health Care Improvement Act, provided that such consultation must be carried out in collaboration with the Indian Medicaid Advisory Committee established under section 415(a)(3) of the Indian Health Care Improvement Act.	*This new subsection is intended to impose a broad requirement on States to consult with I/T/U s before they submit changes to their Medicaid program and to require HCFA to reject the proposed change if such consultation has not occurred. Further, the meaning of consultation should be defined in negotiated rulemaking.*
THROUGH THE INDIAN HEALTH SERVICE **Sec. 421.** The last sentence of Section 1905(b) of the Social Security Act is amended, as follows: Notwithstanding the first sentence of this section, the federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through the ~~an~~ Indian Health Service ~~facility whether operated by the Indian Health Service~~ or ~~by~~ an Indian Tribe, tribal organization or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) under Section 1911 of the Social Security Act. "Through" in this subsection shall include services provided directly, by referral, or under contracts or other arrangements between the Indian Health Service, Indian Tribe, tribal organization or urban Indian organization and another health provider.	*States are currently reimbursed 100 percent for payments made to IHS facilities. This amendment extends that to payments it makes to Indian health programs for all services they provide directly or acquire for IHS beneficiaries through referral, contracts or managed care agreements.* *100 % FMAP for CHIP is provided under a separate section.*
MEDICAID AMENDMENTS **Sec. 422.** Section 1911 of the Social Security Act is amended, as follows:	*The authority for receipt of Medicaid payments by IHS facilities is found in Sec. 1911 of the Social Security Act, 42 U.S.C. § 1396j. It was originally amended through the IHCIA. We propose amendment through the same vehicle.*
INDIAN HEALTH SERVICE PROGRAMS ~~FACILITIES~~ **Sec. 1911.** (a) ~~A facility of t~~ The Indian Health Service and ~~(including a~~	*Makes the IHS and Tribes and tribal organizations eligible for Medicaid reimbursement*

~~hospital, nursing facility, or any other type facility which provides services of a type otherwise covered under the State plan), whether operated by such Service or by~~ an Indian Tribe, tribal organization or urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act)~~,~~ shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it provides services or provider types of a type otherwise covered under the State plan and meets ~~all of~~ the conditions and requirements which are applicable generally to the service for which it seeks reimbursement ~~such facilities~~ under this title and for services provided by a qualified Indian health program under section 1880A.	*for all services and provider types for which Medicaid otherwise pays regardless of whether they are provided in a "facility" or not. It also provides for payment under the newly proposed "qualified Indian health program," which for is described in the new section 1880A. (In a final version of this bill, sec. 1880A would either have a Medicaid parallel or be moved to a more generic part of the Social Security Act.)*
(b) Notwithstanding subsection (a), if ~~a facility of~~ the Indian Health Service, an Indian Tribe or tribal organization, ~~(including a hospital, nursing facility, or any other type of facility~~ which provides services of a type otherwise covered under the State plan, ~~) which~~ does not meet all of the conditions and requirements of this title which are applicable generally to such services ~~facility, but which~~ submits to the Secretary within six months after the date on which it first sought reimbursement for the service ~~of enactment of this section~~ an acceptable plan for achieving compliance with such conditions and requirements, it shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.	*Provides an eighteen month window in which the Indian health program may bill and receive payment before it must meet the applicable program requirements. Although this would rarely be needed for hospitals or clinics, many Indian health programs have lacked a reasonable opportunity to fully develop other health programs. This provides that opportunity.*
(c) The Secretary is authorized to enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided by the ~~in~~ Indian Health Service, Indian Tribes, tribal organizations and urban Indian organizations, directly, through referral, or under contracts or other arrangements between the Indian Health Service, Indian Tribe, tribal organization or urban Indian organization and another health provider ~~facilities~~ to Indians who are eligible for medical assistance under the State plan.	*This amendment permits the Indian health program to be reimbursed for all services it provides directly or acquires for IHS beneficiaries through referral, contracts or managed care agreements.*
CHILDREN'S HEALTH INSURANCE PROGRAM FEDERAL MEDICAL ASSISTANCE PERCENTAGE **Sec. 423.** Section 2101(c) of the Social Security Act is amended by the addition of a new sentence, to read: Without regard to which option a State chooses under section 2101(a), the federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are provided through a health program operated by the Indian Health Service, an Indian Tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act).	***Social Security Act*** *Makes the federal match rate for CHIP 100% for states that operate freestanding programs, as well as those operated under the Medicaid program.*
LIMITATION ON SECRETARY'S WAIVER AUTHORITY **Sec. 424.** Notwithstanding any other provision of law, the Secretary may not waive the application of section 1902(a)(13)(D) to any State Plan under Title XIX of the Social Security Act.	*This will ensure against the Secretary waiving certain conditions protective of Indian health programs when considering State Medicaid waiver requests granted or*

	waiver requests granted or renewed on or after October 1, 1999.
CHILDREN'S HEALTH INSURANCE PROGRAM FUNDS **Sec. 425. DIRECT FUNDING.** The Secretary is authorized to enter into agreements directly with the Indian Health Service and Indian Tribes and tribal organizations under which such entities will provide children's health insurance program like services to Indians who reside in a service area on or near an Indian reservation. Such agreements may provide for funding under a block grant or such other mechanism as is agreed upon by the Secretary and the Indian Health Service, Indian Tribe or tribal organization. Such agreements may not be made contingent on the approval of the State in which the Indians to be served reside. **(b) TRANSFER.** Notwithstanding any other provision of law, a State may transfer funds to which it is, or would otherwise be, entitled under Title XXI of the Social Security Act to the Indian Health Service, Indian Tribes and tribal organizations to be administered to achieve the purposes and objectives of such title under agreements between the State and recipient entity or under an agreement directly between the recipient entity and the Health Care Financing Administration.	*Subsection (a) authorizes HCFA to directly fund Indian CHIP programs. Subsection (b) is permissive and based on agreements with the States. While it will not be helpful in States where the relations between the Tribes and the State are poor, it may be useful in other States.*
WAIVER OF MEDICARE AND MEDICAID SANCTIONS **Sec. 426.** Notwithstanding any other provision of law, the Indian Health Service or an Indian Tribe or tribal organization operating a health program under the Indian Self-Determination and Education Assistance Act shall be entitled to seek a waiver of sanctions imposed under Titles XVIII, XIX or XXI of the Social Security Act as if it were directly responsible for administering the State health care program.	***Social Security Act*** *Certain violations of Medicaid and Medicare rules can result in exclusion from federal health care programs under 42 USC § 1320a-7 and Section 4331(c) of the Balanced Budget Act of 1997, Pub. L. 105-33. Under 42 C.F.R. § 1001.1801(a), the Health Care Financing Administration permits waiver of these sanctions upon the request of* *an individual directly responsible for administering the State health care program.* *HCFA has neither amended this rule to extend the right to make such a request to the Indian Health Service or Tribes and tribal organizations operating health programs under the Indian Self-Determination and Education Assistance Act, nor has it been willing to interpret the current regulation to permit such requests. Despite the fact that no State funds are expended*

	(due to the provisions that provide for 100 percent FMAP), this limitation means that the IHS and Tribes and tribal organizations may not seek a waiver unless the state in which the individual is located will seek a waiver.
SAFE HARBOR **Sec. 427.** (a)The term "remuneration" as used in sections 1128A and 1128B of the Social Security Act [42 U.S.C. 1320a-7a and 42 U.S.C. 1320a-7b] shall not include any exchange of anything of value between or among: (1) any Indian Tribe or tribal organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.)]; (2) any such Indian Tribe or tribal organization and the Indian Health Service; (3) any such Indian Tribe or tribal organization and any patient served or eligible for service under such programs, including patients served or eligible for service pursuant to section 813 of Pub. L. 94-437 [25 U.S.C. 1680c] ; or (4) any such Indian Tribe or tribal organization and any third party required by contract, Section 206 or 207 of Pub. L. 94-437 [42 U.S.C. 1621e or 1621f], or other applicable law, to pay or reimburse the reasonable health care costs incurred by the United States or any such Indian Tribe or tribal organization; *provided* the exchange arises from or relates to such health programs. (b) An Indian Tribe, tribal organization or urban Indian organization (as those terms are defined in the Indian Health Care Improvement Act) that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] or title V of the Indian Health Care Improvement Act shall be deemed to be an agency of the United States and immune from liability under the Sherman Act [15 U.S.C. 1 et seq.], the Clayton Act [15 U.S.C. 12 et seq.], the Robinson-Patman Act, the federal Trade Commission Act [15 U.S.C 41 et seq.] and any other federal, state, or local antitrust laws, with regard to any transaction, agreement, or conduct that relates to such programs.	*This section is intended to ensure that limitations on patient referral and other inter-provider arrangements related to the operation of Indian health programs do not apply within the Indian health system. These health programs which range in size from contract health providers only, to small clinics to large hospitals rely on complex resource sharing and patient referral strategies to maximize limited resources. These relationships are frequently a continuation of relationships established among service units when the IHS was directly operating the health programs.*
COST SHARING **SEC. 428. (a) CO-INSURANCE, CO-PAYMENTS AND DEDUCTIBLES.** Notwithstanding any other provision of federal or State law, no Indian who is eligible for services under Title XVIII, XIX or XXI of the Social Security Act, or any other federally funded health programs may be charged a deductible, co-payment or co-insurance for any service provided by or through the Indian Health Service, an Indian Tribe, tribal organization or urban Indian organization (as defined in Section 4 of the Indian Health Care Improvement Act), nor may the payment or reimbursement due to the Indian Health Service or an Indian Tribe, tribal organization or urban Indian	***Social Security Act.*** *Subsection (a) protects IHS beneficiaries from Medicare and Medicaid co-payments, co-insurance, and deductibles when they use an IHS, tribal or urban Indian health program.* *This is not intended to apply to federal employee benefit programs and may require*

organization be reduced by the amount of the deductible, co-payment or co-insurance that would be due from the Indian but for the operation of this section. For the purposes of this section, "through" shall include services provided directly, by referral, or under contracts or other arrangements between the Indian Health Service, Indian Tribe, tribal organization or urban Indian organization and another health provider.	*programs and may require revisions.*
(b) PREMIUMS. **(1) MEDICAID AND CHILD HEALTH INSURANCE PROGRAM** Notwithstanding any other provision of federal or State law, no Indian who is otherwise eligible for services under Title XIX (medicaid) or Title XXI (children's health insurance program) of the Social Security Act may be charged a premium as a condition of receiving benefits from the program.	***Social Security Act*** *Subsection (b) permits Indian children to participate in CHIP and Medicaid expansion programs without paying a premium. Premiums are not exempted for Medicare because the Medicaid program must pay premiums whenever a Medicare eligible person is also eligible for Medicaid.*
(2) MEDICARE ENROLLMENT PREMIUM PENALTIES. Notwithstanding any other provision of federal or State law, no Indian (as that term is defined in section 4 of the Indian Health Care Improvement Act) who is eligible for Medicare, but for the payment of premiums, shall be charged a penalty for enrolling in Medicare at a time later than the person might otherwise have been eligible. This prohibition applies whether the Indian pays for the premiums directly or the premiums are paid by another person or entity, including a State, the Indian Health Service, an Indian Tribe, tribal organization, or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act.)	***Social Security Act*** *This new subsection is intended to avoid the cost of penalties for "late" enrollment in Medicare*
(c) MEDICALLY NEEDY PROGRAM SPEND-DOWN. For the purposes of any medically needy option under a State's Medicaid plan under Title XIX of the Social Security Act, the cost of providing services to an Indian in a health program of the Indian Health Service, an Indian Tribe, tribal organization or urban Indian organization shall be deemed to have been an expenditure for health care by the person applying for Medicaid.	***Social Security Act*** *Subsection (c) is a place-holder for more precise language to be drafted after obtaining technical assistance from HCFA. It is intended to allow expenditures of Indian health programs to be counted for the purposes of "spend-down" requirements of certain Medicaid eligibility requirements, as if the applicant actually paid for them.*
(d) ESTATE RECOVERY. Notwithstanding any other provision of federal or state law, the following property may not be included when determining eligibility for services or implementing estate recovery rights under Titles XVIII, XIX or XXI of the Social Security Act, or other health care programs funded in whole or part with federal monies– (1) income derived from rents, leases or royalties of property held in trust for individuals by the federal government; (2) income derived from rents, leases, royalties, or natural resources (including timber and fishing activities) resulting from the exercise of federally protected rights,	***Social Security Act*** *Subsection (d) is intended to minimize the impact of estate recovery rules. The language here addresses the highest priority items the Work Group discussed, including possessions necessary for carrying out subsistence or traditional activities (whether commercial or not).*

whether collected by an individual or tribal group and distributed to individuals; (3) property, including interests in real property currently or formerly held in trust by the federal government which is protected under applicable federal, State or tribal law or custom from recourse and including public domain allotments; and (4) property that has unique religious and/or cultural significance or that supports subsistence or traditional life style according to applicable tribal law or custom.	
(e) MEDICAL CHILD SUPPORT RECOVERY. Notwithstanding any other provision of law, a parent shall not be responsible for reimbursing a state or the federal government for the cost of medical services provided to a child by or through the Indian Health Service, an Indian Tribe, tribal organization or urban Indian organization. For the purposes of this subsection, "through" shall include services provided directly, by referral, or under contracts or other arrangements between the Indian Health Service, Indian Tribe, tribal organization or urban Indian organization and another health provider.	***Social Security Act*** *This subsection is intended to prevent State Medicaid and CHIP programs from seeking to recover the cost of payments made to an Indian health program or which have to be made to another provider when the services provided to the child were arranged through contract health services or similar arrangements.*
MANAGED CARE **Sec. 429. (a) RECOVERY FROM MANAGED CARE PLANS.** (1) Notwithstanding any other provision in law, the Indian Health Service, an Indian Tribe, tribal organization or urban Indian organization shall have a right of recovery under section 408 of this title from all private and public health plans, including Medicare, Medicaid, children's health insurance and privately managed care plans for the reasonable costs of delivering health services to Indians entitled to receive services from the Service, an Indian Tribe, tribal organization or urban Indian organization. (2) No provision of a contract, regulation or statute may be relied upon or interpreted to deny or reduce payments otherwise due under this section, except to the extent the Service, Indian Tribe, tribal organization or urban Indian organization has entered into an agreement with the managed care plan regarding services to be provided or rates to be paid, provided that such an agreement may not be made a prerequisite for such payments to be made. (3) Payments due under this section may not be less than those paid to a "preferred provider" under the managed care plan or, in the event there is no such rate, the usual and customary fee for equivalent services. (4) A managed care plan may not deny payment under this section because the insured or covered beneficiary of the plan has not submitted a claim.	*This new (b) probably requires amendment to the Social Security Act or some other federal law governing managed care organizations.* *HCFA has expressed concern about State's recouping twice for payments made if the Indian health provider receives payment directly from the State. Perhaps HCFA will suggest some language to avoid that unintended outcome.*
(5) Notwithstanding subsections (1) through (4) of this section, the Indian Health Service, an Indian Tribe, tribal organization or urban Indian organization that provides a health service to an Indian entitled under Title XIX (medicaid) or enrolled under Title XXI (children's health insurance program) of the Social Security Act to receive such services shall have the right to be paid directly by the State's Medicaid or children's health insurance program notwithstanding any agreements the State may have entered into with managed care organizations or providers.	*This is intended to minimize the extent to which Indian health programs are forced to do business with MCOs as a condition of getting paid. It creates the need for reconciliation by the State with the MCOs so they don't benefit*

	unjustly. No language has been written yet to address that.
(6) A managed care organization that is enrolled in a State Medicaid program must as a condition of such enrollment offer a contract to health programs administered by the Indian Health Service, an Indian Tribe, tribal organization or urban Indian organization that provides health services in the geographic area served by the managed care organization and such contract (or other provider participation agreement) shall contain terms and conditions of participation and payment no more restrictive or onerous than those provided for in this section.	*The intent of this new subsection is to require MCOs to enter into contracts with Indian health programs so that they can be providers under the MCO.*
(b) PROHIBIT AUTO- AND DEFAULT ASSIGNMENT. Notwithstanding any other provision of law or any waiver granted by the Secretary, no Indian may be assigned automatically or by default under any managed care plan paid under Title XIX (medicaid) or Title XXI (children's health insurance program) of the Social Security Act unless the person had the option of enrolling in a managed care plan or health program administered by the Service, an Indian Tribe, tribal organization or urban Indian organization in which case an Indian may be assigned only to such a managed care plan or health program.	***Social Security Act*** *This section is intended to ensure that Indians are not assigned without their consent to non-Indian managed care plans.*
(c) INDIAN MANAGED CARE PLANS. Notwithstanding any other provision of law, any State entering into agreements with one or more managed care organizations to provide services under Title XIX or Title XXI of the Social Security Act must enter into such an agreement with the Service, an Indian Tribe, tribal organization or urban Indian organization that can provide services to Indians who may be eligible or required to enroll in such a managed care plan similar to those to be offered by other managed care organizations. The Secretary and the State are hereby authorized to waive requirements regarding discrimination, capitalization and other matters that might otherwise prevent the Indian managed care organization or health program from meeting federal or State standards applicable to such organizations, provided such Indian managed care organization or health program must be able to offer its Indian enrollees services of an equivalent quality to that required of other managed care organizations.	***Social Security Act*** *This section is intended to allow Indian health programs and managed care plans to be offered to Medicaid and CHIP beneficiaries in States that have implemented managed care. It allows waiver of any requirement except those related to the quality of the health services to be delivered.*
(d) ADVERTISING. A managed care organization entering into contracts to provide services to Indians on or near an Indian reservation shall provide a certificate of coverage or similar type of document that is written in the Indian language of the majority of the Indian population residing on such reservation.	***Probably should be an amendment to the Patient's Rights Act.*** .
NAVAJO NATION MEDICAID AGENCY **Sec. 430.** (1) Notwithstanding any other provision of law, the Secretary is authorized to treat the Navajo Nation as a State for the purposes of Title XIX of the Social Security Act, to provide services to Indians living within the boundaries of the Navajo Nation. (2) Notwithstanding any other provision of law, the Secretary shall have the authority to assign and pay all funds for the provision of services to Indians living within the boundaries of the Navajo Nation under Title XIX of the Social Security Act and related administrative funds under Title XIX (medicaid) of the Social Security Act, which are currently paid to or would otherwise be paid to the States of Arizona, New Mexico and Utah, to an entity established by the Navajo Nation and approved by the Secretary, which shall be denominated the Navajo Nation Medicaid Agency. (3) The Navajo Nation Medicaid Agency shall serve Indians living within the	*This subsection (b) authorizes the Navajo Nation to establish a Medicaid agency to serve Indians residing within the boundaries of the Nation. This will provide an opportunity to test a direct relationship with HCFA.* ***This provision will almost surely have to be in the Social Security Act and will require many additional amendments to conform other provisions of the Social Security Act regarding Medicaid and the Childrens Health Insurance Program.*** *The Navajo Nation is working on a specific proposal to become a*

boundaries of the Navajo Nation and shall have the same authority and perform the same functions as other single State medicaid agencies. (4) The Secretary is authorized to directly assist the Navajo Nation in the development and implementation of a Navajo Nation Medicaid Agency for the administration, eligibility, payment and delivery of Medicaid eligible services, including western and traditional Navajo healing services, within the Navajo Nation. (5) Notwithstanding section 1905(b) of the Social Security Act, the federal medical assistance percentage shall be 100 per centum with respect to amounts the Navajo Nation Medicaid agency expends for medical assistance for services and for related administrative costs. (6) The Secretary is further authorized to assist the Navajo Nation by providing funding including demonstration grant funding for this project. (7) The Secretary shall have the authority to waive applicable provisions of Title XIX of the Social Security Act to establish, develop and implement the Navajo Nation Medicaid Agency. (8) In the option of the Navajo Nation, the Secretary is authorized to treat the Navajo Nation as a State for the purposes of Title XXI (children's health insurance program) under terms equivalent to those described in paragraphs (1) through (7) of this subsection.	*Medicaid Agency. The National Steering Committee determined that this demonstration should be authorized and evaluated before trying to obtain more general authority for other direct relationships with HCFA.* ***The Nation's Attorney General's Office proposed some amendments. The purely editorial ones have been made. The substantive ones have been set aside since so much additional work will be needed to fully implement this concept. Among the changes that will be needed is authority for the Nation to carry out licensure and certification in order for it to satisfy all of the conditions imposed on Medicaid State agencies.*** ***It is further intended that where ever the term "State Medicaid agency" or its equivalent is used in the Social Security Act that it will include the Navajo Nation Medicaid Agency.***
INDIAN ADVISORY COMMITTEES **Sec. 431. (a) NATIONAL INDIAN TECHNICAL ADVISORY GROUP.** The Health Care Financing Administration shall establish and fund the expenses of a National Indian Technical Advisory Group which shall have no fewer than 14 members including at least one member designated by the Indian Tribes and tribal organizations in each service area, one urban Indian organization representative, and one member representing the Indian Health Service. The scope of the activities of such group shall be established under section 802 of the Indian Health Care Improvement Act, provided that such scope shall include providing comment on and advice regarding the programs funded under Titles XVIII, XIX and XXI of the Social Security Act or any other health care program funded (in whole or part) by the Health Care Financing Administration.	***Social Security Act*** *This new section is intended to assure meaningful opportunities at the national and at State levels for Indian Tribes and Indian health programs to participate in the development of federal health care financing policy and State implementation of Medicaid and CHIP. (a) parallels the TAG that HCFA supports for the States, while (b) parallels the State advisory committees for which Medicaid funds are used.*
(b) INDIAN MEDICAID ADVISORY COMMITTEES. The Health Care Financing Administration shall establish and provide funding for a Indian Medicaid Advisory Committee made up of designees of the Indian Health Service, Indian Tribes, tribal organizations and urban Indian organizations in each State in which the Indian Health Service directly operates a health program or in which there is one or more Indian Tribe, tribal organization or urban Indian organization.	

AUTHORIZATION OF APPROPRIATIONS **SEC. 432 ~~407~~.** There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2012 ~~2000~~ to carry out this title.	

TITLE V – HEALTH SERVICES FOR URBAN INDIANS

Introductory Comments:

Title V authorizes the Secretary of HHS to provide funding to urban Indian organizations for the delivery of outpatient services to urban Indians, who are not able to access health services through facilities operated by the I.H.S. or the Tribes. In FY 1999, Congress appropriated $26.4 million to implement Title V. These funds support the operation of programs serving about 149,000 urban Indians in 34 cities throughout the country. The services offered by these programs range from outreach and referral to comprehensive ambulatory health care. Under current law, the Title V authorization for appropriations expires in FY 2000.

The amendments set forth below, which reflect the recommendations of the National Steering Committee, would extend the Title V authorization through FY 2012 and revise the Title to more effectively address the needs of urban Indians. The proposed amendments would also:

- *streamline the current law provisions relating to the standards and procedures for contracting and making grants to urban Indian organizations;*
- *require the agencies in the Department of HHS to consult with urban Indians prior to taking actions that would affect them;*
- *expand the Secretary's authority to fund, through grants, loans, or loan guarantees, the construction or renovation of facilities for urban Indian programs;*
- *enable urban Indian programs to obtain malpractice coverage under the federal Tort Claims Act; and*
- *authorize a demonstration program of residential treatment centers for urban Indian youth with alcohol or substance abuse problems.*

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PURPOSE **Sec. 501.** The purpose of this title is to establish programs in urban centers to make health services more accessible and available to urban Indians.	*Clarifies that urban Indian programs can make services available as well as refer to other providers*
CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS **Sec. 502.** Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within ~~the~~ urban centers ~~in which such organizations are situated~~, of programs which meet the requirements set forth in this title. The Secretary, through the Service, subject to subsection 506, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this title.	*These amendments would conform this section with the proposed changes to section 503 (relating to allowable service areas of urban programs) and section 506 (relating to the administration of contracts and grants).*
CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES **Sec. 503.** (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with~~,~~ and make grants to, urban Indian organizations for the provision of health care and referral services for urban Indians ~~residing in the urban centers in which such organizations are situated~~. Any such contract or grant shall include requirements	*The proposed amendments to subsection (a) would:* *(1) give the Secretary the flexibility to contract with or make*

~~such organizations are situated~~. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to–	*grants to an urban Indian organization serving more than one urban center; and*
(1) estimate the population of urban Indians residing in the urban center ~~in which such organization is situated~~ or centers that the organization proposes to serve who are or could be recipients of health care or referral services;	*(2) streamline the performance standards and selection criteria used by the Secretary by deleting references relating to accessibility to, and utilization of, health care services other than those provided by urban Indian organizations.*
(2) estimate the current health status of urban Indians residing in such urban center or centers;	
(3) estimate the current health care needs of urban Indians residing in such urban center or centers;	
(4) ~~identify all public and private health services resources within such urban center which are or may be available to urban Indians;~~	
~~(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;~~	
~~(6) assist such health services resources in providing services to urban Indians;~~	
~~(7) assist urban Indians in becoming familiar with and utilizing such health services resources;~~	
~~(8)~~ provide basic health education, including health promotion and disease prevention education, to urban Indians;	
~~(9) establish and implement training programs to accomplish the referral and education tasks set forth in paragraphs (6) through (8) of this subsection;~~	
~~(10)identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;~~	
(5) ~~(11)~~ make recommendations to the Secretary and federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and	*The proposed amendment to subsection (b) would streamline the criteria for selecting urban Indian organizations as contractors or grantees by deleting references relating to accessibility to, and utilization of, health care services other than those provided by urban Indian organizations.*
(6) ~~(12)~~ where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.	
(b) The Secretary, through the Service, shall by regulation adopted pursuant to section 520 prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include–	
(1) the extent of unmet health care needs of urban Indians in the urban center or centers involved;	

(2) the size of the urban Indian population in the urban center or centers involved;

(3) ~~the accessibility to, and utilization of, health care services (other than services provided under this title) by urban Indians in the urban center involved;~~

~~(4)~~ the extent, if any, to which the activities set forth in subsection (a) would duplicate~~–~~
~~(A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this title; or~~

~~(B)~~ any project funded under this title;

(4) ~~(5)~~ the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

(5) ~~(6)~~ the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

(6) ~~(7)~~ the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center or centers; and

(7) ~~(8)~~ the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related federal, State, local, and other agencies.

(c) The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

The proposed amendment to subsection (d) would streamline the Secretary's authority for making grants to urban Indian programs for the provision of immunization services by eliminating the requirement that the Secretary first determine the immunization levels of the urban Indian population and the utilization of other immunization programs by urban Indians.

(d)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered, ~~into pursuant to this section~~ or receiving grants, under this section ~~subsection (a)~~.

(2) ~~In making any grant to carry out this subsection, the Secretary shall take into consideration~~

~~(A) the size of the urban Indian population to be served;~~

~~(B) the immunization levels of the urban Indian population, particularly the immunization levels of infants, children, and the elderly;~~

~~(C) the utilization by the urban Indians of alternative resources from State and local governments for no-cost or low-cost immunization services to the general population;~~

~~and~~

~~(D) the capability of the urban Indian organization to carry out services pursuant to this subsection.~~

~~(3)~~ For purposes of this subsection, the term "immunization services" means services to provide without charge immunizations against vaccine-preventable diseases.

(e)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

(3) Grants may be made under this subsection–

(A) to prepare assessments required under paragraph (2);

(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct behavioral ~~mental~~ health services, to educate urban Indians about behavioral ~~mental~~ health issues and services, and effect coordination with existing behavioral ~~mental~~ health providers in order to improve services to urban Indians;

(C) to provide outpatient behavioral ~~mental~~ health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

(D) to develop innovative behavioral ~~mental~~ health service delivery models which incorporate Indian cultural support systems and resources.

(f)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among urban Indians.

(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

(3) Grants may be made under this subsection– (A) to prepare assessments required under paragraph (2); (B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and (C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse). (4) In making grants to carry out this subsection, the Secretary shall take into consideration– (A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any; (B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and (C) the assessment required under paragraph (2). (g) The Secretary, through the Service, may enter into a contract with, or make grants to, an urban Indian organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to urban Indians in more than one urban center.	*The proposed amendment to subsection (g) would clarify the authority of the Secretary to contract with or make grants to an urban Indian organization serving more than one urban center.*
CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS **Sec. 504.** (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.	*No amendments are proposed to this section.*

(b) Any contract entered into, or grant made, by the Secretary under this section shall include requirements that– (1) the urban Indian organization successfully undertake to– (A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and (B) with respect to urban Indians in the urban center involved, determine the matters described in clauses (2), (3), (4), and (7) ~~(8)~~ of section 503(b); and (2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable. (c) The Secretary may not renew any contract entered into, or grant made, under this section.	
EVALUATIONS; RENEWALS **Sec. 505.** (a) The Secretary, through the Service, shall develop procedures to evaluate compliance with grant requirements under this title and compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section. (b) The Secretary, through the Service, shall evaluate the compliance ~~conduct an annual onsite evaluation~~ of each urban Indian organization which has entered into a contract or received a grant under section 503 with ~~for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract or~~ the terms of such contract or grant. For purposes of this evaluation, the Secretary, in determining the capacity of an urban Indian organization to deliver quality patient care shall, at the option of the organization— (1) through the Service conduct an annual onsite evaluation of the organization; or (2) accept in lieu of such onsite evaluation evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews or providers participating in the Medicare program under Title XVIII of the Social Security Act. (c) If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify	*The proposed amendments to subsection (b) would streamline the process by which the Secretary evaluates compliance of urban Indian organizations with the terms of their contracts or grants under this title by allowing urban Indian organizations, at their option, to substitute accreditation by a Medicare-approved entity for the annual IHS onsite evaluations. A conforming amendment is proposed for subsection (d).*

such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section. (d) In determining whether to renew a contract or grant with an urban Indian organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract or grant under section 503, shall consider the results of the onsite evaluations or accreditations ~~conducted~~ under subsection (b).	
OTHER CONTRACT AND GRANT REQUIREMENTS **Sec. 506.** (a) Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all federal contracting laws and regulations relating to procurement except that in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.). (b) Payments under any contracts or grants pursuant to this title ~~may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title~~ shall, notwithstanding any term or condition of such contract or grant— (1) be made in their entirety by the Secretary to the urban Indian organization by no later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such payments in their entirety; and (2) if unexpended by the urban Indian organization during the funding period with respect to which the payments initially apply, shall be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during one or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the expenditure of such funds. (c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title. ~~(d) In connection with any contract or grant entered into pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract or grant, existing facilities owned by the federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the~~	*The proposed amendment to subsection (a) would clarify that the federal laws and regualtions applicable to contracts with urban Indian organizations are those relating to federal procurement contracts* *The proposed amendment to subsection (b) would (1) require that the Secretary make payments under contracts or grants on a lump sum basis unless the organization is not capable of administering the funds on this basis, and (2) allow a contactor or grantee to carry forward unexpended funds from one funding period to the next.* *The proposed amendment would delete subsection (d) as duplicative with the proposed new section 517(a) relating to access to federal facilities and property by urban Indian organizations.*

~~Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.~~ (e) Contracts with or grants to urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations. (f) Urban Indians, as defined under section 4~~(f)~~ 4(t) of this Act, shall be eligible for health care or referral services provided pursuant to this title.	*The proposed amendment would conform the reference to the redesignation of the definitions.*
REPORTS AND RECORDS **Sec. 507.** (a) For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this title, such organization shall submit to the Secretary on a basis no more frequent than every six months, ~~a quarterly report~~ including– (1) in the case of a contract or grant under section 503, information gathered pursuant to ~~clauses (10) and (11)~~ clause (5) of subsection (a) of such section; (2) information on activities conducted by the organization pursuant to the contract or grant; (3) an accounting of the amounts and purpose for which federal funds were expended; and (4) a minimum set of data, using uniformly defined elements, that is specified by the Secretary in consultation consistent with section 514, with urban Indian organizations ~~such other information as the Secretary may request~~. (b) The reports and records of the urban Indian organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States. (c) The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial ~~private~~ audit conducted by— (1) a certified public accountant; or. (2) a certified public accounting firm qualified to conduct federal compliance audits. ~~(d)(1) The Secretary, acting through the Service, shall submit a report to the Congress not later than March 31, 1992, evaluating~~ ~~(A) the health status of urban Indians;~~	*The proposed amendments to subsection (a) would:* *(1) streamline the reporting requirements for urban Indian contractors or grantees by the submission of reports on a semi-annual (or, at the Secretary's discretion, less frequent) basis;* *(2) require that the reports contain a minimum data set developed the Secretary in consultation with urban Indian organizations; and* *(3) conform this subsection to the amendments proposed for section 503(a).* *The proposed amendments to subsection (c) would require the Secretary to treat as cost of a contract or grant the cost of an independent financial audit conducted annually either by a CPA or by a CPA firm qualified to conduct federal compliance audits.* *The proposed amendments to subsection (d) would delete an obsolete reporting requirement on the Secretary.*

~~(B) the services provided to Indians through this title;~~ ~~(C) areas of unmet needs in urban areas served under this title; and~~ ~~(D) areas of unmet needs in urban areas not served under this title.~~ ~~(2) In preparing the report under paragraph (1), the Secretary shall consult with urban Indian health providers and may contract with a national organization representing urban Indian health concerns to conduct any aspect of the report.~~ ~~(3) The Secretary and the Secretary of the Interior shall~~ ~~(A) assess the status of the welfare of urban Indian children, including the volume of child protection cases, the prevalence of child sexual abuse, and the extent of urban Indian coordination with tribal authorities with respect to child sexual abuse; and~~ ~~(B) submit a report on the assessment required under subparagraph (A), together with recommended legislation to improve Indian child protection in urban Indian populations, to the Congress no later than March 31, 1992.~~	
LIMITATION ON CONTRACT AUTHORITY **Sec. 508.** The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.	*The proposed amendment to section 508 would clarify that the current appropriation limitations apply to grants under this title as well as to contracts.*
FACILITIES ~~RENOVATION~~ **Sec. 509.** (a) The Secretary may make grants ~~funds available~~ to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order ~~minor renovations to facilities, including leased facilities,~~ to assist such contractors or grant recipients in complying with applicable licensure or certification requirements. ~~meeting or maintaining the Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards~~. (b) The Secretary, acting through the Service or through the Health Resources and Services Administration, may provide to contractors or grant recipients under this title loans from the Urban Indian Health Care Facilities Revolving Loan Fund (hereinafter "URLF") described in subsection (c), or guarantees for loans, for the construction, renovation, expansion, or purchase of health care facilities, subject to the following requirements: (1) the principal amount of a loan or loan guarantee may cover 100 percent of the costs (other than staffing) relating to the facility, including planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, medical equipment, furnishings, and capital purchase;	*The proposed amendment to subsection (a) would authorize the Secretary to make grants to urban Indian organizations for the lease, purchase, construction, expansion, or renovation of facilities in order to assist the organizations in complying with state licensure or certification requirements.* *The proposed amendment to subsection (b) would authorize the Secretary to provide loans or loan guarantees to urban Indian organizations receiving grants or contracts under this title for the purpose of building, renovating, expanding, or purchasing health care facilities.*

(2) the total of the principal of loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriations acts; (3) the loan or loan guarantee may have a term of the shorter of the estimated useful life of the facility, or twenty-five (25) years; (4) an urban Indian organization may assign, and the Secretary may accept assignment of, the revenue of the organization as security for a loan or loan guarantee under this subsection; and (5) the Secretary shall not collect application, processing, or similar fees from urban Indian organizations applying for loans or loan guarantees under this subsection. (c)(1) There is established in the Treasury of the United States a fund to be known as the Urban Indian Health Care Facilities Revolving Loan Fund. URLF shall consist of: (A) such amounts as may be appropriated to URLF; (B) amounts received from urban Indian organizations in repayment of loans made to such organizations under paragraph (2); and (C) interest earned on amounts in URLF under paragraph (3). (2) Amounts in URLF may be expended by the Secretary, acting through the Service or the Health Resources and Services Administration, to make loans available to urban Indian organizations receiving grants or contracts under this title for the purposes, and subject to the requirements, described in subsection (b). Amounts appropriated to URLF, amounts received from urban Indian organizations in repayment of loans, and interest on amounts in URLF shall remain available until expended. (3) The Secretary of the Treasury shall invest such amounts of URLF as such Secretary determines are not required to meet current withdrawals from URLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by URLF may be sold by the Secretary of the Treasury at the market price.	*The proposed new subsection (c) would establish a revolving loan fund to be administered by the Secretary for use by urban Indian organizations receiving grants or contracts under this title for the purpose of building, renovating, expanding, or purchasing health care facilities.*
OFFICE OF URBAN INDIAN HEALTH ~~PROGRAMS BRANCH~~ **Sec. 510. ~~(a) ESTABLISHMENT.~~** There is hereby established within the Service an Office ~~a Branch~~ of Urban Indian Health ~~Programs,~~ which shall be responsible for: (1) carrying out the provisions of this title; ~~and~~ (2) ~~for~~ providing central oversight of the programs and services authorized under this	*The proposed amendment to subsection (a) would redesignate the Branch of Urban Indian Health Programs as the Office of Urban Indian Health and add to its responsibilities the provision of technical assistance to urban Indian health programs*

title; and (3) providing technical assistance to urban Indian organizations. ~~(b) Staff, Services, and Equipment. The Secretary shall appoint such employees to work in the branch, including a program director, and shall provide such services and equipment, as may be necessary for it to carry out its responsibilities. The Secretary shall also analyze the need to provide at least one urban health program analyst for each area office of the Indian Health Service and shall submit his findings to the Congress as a part of the Department's fiscal year 1993 budget request.~~	*Indian health programs.* *The proposed amendment to subsection (b) would delete obsolete requirements imposed upon the Secretary.*
GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES **Sec. 511.** (a) ~~GRANTS.—~~The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201. (b) ~~GOALS OF GRANT.—~~Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee. (c) ~~CRITERIA.—~~The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the- (1) size of the urban Indian population; (2) ~~accessibility to, and utilization of, other health resources available to such population;~~ ~~(3) duplication of existing Service or other federal grants or contracts;~~ ~~(4)~~ capability of the organization to adequately perform the activities required under the grant; ~~(5)~~ (3) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and ~~(6)~~ (4) identification of need for services. The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria. (d) ~~TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN~~	*The proposed amendments to subsection (c) would conform these grant criteria to those under section 503(a) by deleting references relating to accessibility to, and utilization of, health care services other than those provided by urban Indian organizations.*

~~ORGANIZATIONS.~~-- Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).	
TREATMENT OF CERTAIN DEMONSTRATION PROJECTS **Sec. 512.** (a) (1) Notwithstanding any other provision of law, the Oklahoma City Clinic demonstration project ~~and the Tulsa Clinic demonstration project~~ shall be treated as service units in the allocation of resources and coordination of care and shall not be subject to the provisions of the Indian Self-Determination and Education Assistance Act for the term of such project~~s~~. The Secretary shall provide assistance to such project~~s~~ in the development of resources and equipment and facility needs. (2) ~~(b)~~ The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in paragraph (1) of this subsection (a). (b) Notwithstanding any other provision of law, the Tulsa Clinic demonstration project shall become permanent programs within the Service's direct care program and continue to be treated as service units in the allocation of resources and coordination of care, and shall continue to meet the requirements and definitions of an urban Indian organization in Title V of this Act, and as such will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act.	***There is consensus that the Tulsa project is permanent and non-divisible. Issues regarding the Oklahoma City project are not yet resolved.*** *The proposed amendments to subsection (a) would convert the Tulsa Clinic demonstration projects to permanent programs that are treated as I.H.S. service units and urban Indian organizations but are not subject to the Indian Self-Determination Act. Pending outcome of the deliberations regarding the Oklahoma City project, the status of that project is not changed.*
URBAN NIAAA TRANSFERRED PROGRAMS **Sec. 513.** (a) The Secretary shall, through ~~within~~ the Office ~~Branch~~ of Urban Indian Health ~~Programs~~ of the Service, make grants or enter into contracts effective no later than September 30, 2001, with urban Indian organizations for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as "NIAAA") and transferred to the Service. (b) Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section. (c) Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section. ~~(d) For the purpose of carrying out this section, the Secretary may combine NIAAA alcohol funds with other substance abuse funds currently administered through the Branch of Urban Health Programs of the Service.~~ ~~(e)~~ (d) The Secretary shall evaluate and report to the Congress on the activities of	*The proposed amendment to subsection (a) would direct the Secretary, through the Office of Urban Health, to complete the transfer of the NIAAA programs to urban Indian organizations by September 30, 2001.* *The proposed amendment to subsection (d) would prohibit the Secretary from reallocating substance abuse funds away from urban Indian organizations receiving such funds prior to the transfer of NIAAA funds.*

programs funded under this section at least every two years.	
CONSULTATION WITH URBAN INDIAN ORGANIZATIONS **Sec. 514.** (a) The Secretary shall ensure that the Service, the Health Care Financing Administration, and other operating divisions and staff divisions of the Department consult, to the greatest extent practicable, with urban Indian organizations (as defined in section 4(w) prior to taking any action, or approving federal financial assistance for any action of a State, that may affect urban Indians or urban Indian organizations. (b) For purposes of subsection (a), consultation is the open and free exchange of information and opinion among urban Indian organizations and the Operating and staff divisions of the Department which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.	*The proposed new section 514 would clarify that the Secretary of HHS and the Operating Divisions of the Department have a duty to consult with urban Indian organizations prior to taking action or approving federal financial assistance for actions that may affect urban Indians or urban Indian organizations. The amendment also conforms to the redesignation of the definitions section.*
FEDERAL TORT CLAIMS ACT COVERAGE **Sec. 515.** For purposes of section 224 of the Public Health Service Act of July 1, 1944 (42 U.S.C. 233(a)), as amended by Section 4 of the Act of December 31, 1970, (84 Stat. 1870), with respect to claims by any person, initially filed on or after October 1, 1999, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by federal law or regulations, for personal injury, including death, resulting from the performance prior to, including, or after October 1, 1999, of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, or for purposes of section 2679, title 28, United States Code, with respect to claims by any such person, on or after October 1, 1999, for personal injury, including death, resulting from the operation of an emergency motor vehicle, an urban Indian organization that has entered into a contract or received a grant pursuant to this title is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or grant and its employees (including those acting on behalf of the organization as provided in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with an urban Indian organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or grant; Provided, that such employees shall be deemed to be acting within the scope of their employment in carrying out the contract or grant when they are required, by reason of their employment, to perform medical, surgical, dental or related functions at a facility other than a facility operated by the urban Indian organization pursuant to such contract or grant, but only if such employees are not compensated for the performance of such functions by a person or entity other than the urban Indian organization.	*This proposed new section 515 would make the federal Tort Claims Act (FTCA) applicable to urban Indian organizations that have entered into contracts or are receiving grants under this title effective October 1, 1999, on the same basis that the FTCA now applies to programs operated by Tribes or tribal organizations under section 102(d) of the Indian Self-Determination Act.*
URBAN YOUTH TREATMENT CENTER DEMONSTRATION	

Sec. 516. (a) The Secretary, acting through the Service, shall, through grant or contract, make payment for the construction and operation of at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to urban Indian youth in a culturally competent residential setting. (b) A State described in this subsection is a State in which: (1) there reside urban Indian youth with need for alcohol and substance abuse treatment services in a residential setting; and (2) there is a significant shortage of culturally competent residential treatment services for urban Indian youth.	*This proposed new section would direct the Secretary to fund the construction and operation of at least 2 residential treatment centers for urban Indian youth in each state with high need for such centers to demonstrate the treatment of alcohol and substance abuse in a culturally competent residential setting.*
USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY **Sec 517.** (a) The Secretary shall permit an urban Indian organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance. (b) Subject to subsection (d), the Secretary may donate to an urban Indian organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Indian Health Service or the General Services Administration for purposes of carrying out the contract or grant. (c) The Secretary may acquire excess or surplus government personal or real property for donation, subject to subsection (d), to an urban Indian organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the urban Indian organization for a purpose for which a contract or grant is authorized under this title. (d) In the event that the Secretary receives a request for a specific item of personal or real property described in subsections (b) or (c) from an urban Indian organization and from an Indian Tribe or tribal organization, the Secretary shall give priority to the request for donation of the Indian Tribe or tribal organization if the Secretary receives the request from the Indian Tribe or tribal organization before the date the Secretary transfers title to the property or, if earlier, the date the Secretary transfers the property physically, to the urban Indian organization. (e) For purposes of section 201(a) of the federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a))(relating to federal sources of supply, including lodging providers, airlines, and other transportation providers), an urban Indian organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant, and the employees of the urban Indian organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.	*The proposed new section 517 would extend to urban Indian organizations with a contract or grant under this title the same access to federal facilities and property (including excess property) and sources of supply that is currently available to programs operated by Tribes or tribal organizations under sections 105(f) and 105(k) of the Indian Self-Determination Act.*

GRANTS FOR DIABETES PREVENTION, TREATMENT AND CONTROL **Sec. 518.** (a) The Secretary may make grants to those urban Indian organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention, treatment, and control of the complications resulting from, diabetes among urban Indians. (b) Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee. (c) The Secretary shall establish criteria for the grants made under subsection (a) relating to – (1) the size and location of the urban Indian population to be served; (2) the need for prevention of, treatment of, and control of the complications resulting from diabetes among the urban Indian population to be served; (3)-performance standards for the organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee; (4) the capability of the organization to adequately perform the activities required under the grant; and (5) the willingness of the organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the area office of the Service in which the organization is located. (d) Any funds received by an urban Indian organization under this Act for the prevention, treatment, and control of diabetes among urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).	*This proposed new section would authorize the Secretary to make grants to urban Indian organizations with contracts or grants under this title for the purpose of preventing, treating, and controlling diabetes among urban Indians.*
COMMUNITY HEALTH REPRESENTATIVES **Sec. 519.** The Secretary, through the Service, may enter into contracts with, and make grants to, urban Indian organizations for the use of Indians trained as health service providers through the Community Health Representatives Program under section 107(b) in the provision of health care, health promotion, and disease prevention services to urban Indians.	*The proposed amendment would authorize the Secretary to contract with and make grants to urban Indian organizations to use trained Community Health Representatives in the provision of services to urban Indians.*
REGULATIONS **Sec. 520**. (a) The amendments to this title by the Indian Health Care Improvement Act Amendments of 1999, shall be effective on the date of enactment of such amendments, regardless of whether the Secretary has promulgated regulations implementing such amendments have been promulgated. (b) The Secretary may promulgate regulations to implement the provisions of this title.	*The proposed amendment would require that any regulations issued by the Secretary to implement Title V be approved by a negotiated rulemaking committee composed exclusively of representatives of urban Indian organizations. Note that under proposed section 802(a)(3), the*

title. (1) Proposed regulations to implement this Act shall be published in the federal Register by the Secretary no later than 270 days after the date of enactment of this Act and shall have no less than a 120 day comment period. (2) The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act. (c) The negotiated rulemaking committee described in this subsection shall be established pursuant to section 565 of Title 5, United States Code, and shall have as the majority of its members representatives of urban Indian organizations from each service area in addition to federal representatives. (d) Adaption of Procedures. The Secretary shall adapt the negotiated rulemaking procedures to the unique context of this Act.	*Secretary's authority to promulgate regulations implementing the proposed amendments would expire 18 months from the date of enactment of the amendments.*
AUTHORIZATION OF APPROPRIATIONS **Sec. 521 ~~514~~.** There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2012 ~~2000~~ to carry out this title.	
REPEAL OF FACILITIES SURVEY AND REPORTING REQUIREMENT Subsections 506(a) and (b) of P.L. 101-630 are repealed. [NOTE: Sec. 506 of P.L. 101-630 reads as follows: ~~(a) Survey. The Secretary shall conduct a survey of all facilities used by contractors under title V of the Indian Health Care Improvement Act and shall submit a report to the Congress on such survey not later than one year after the date of enactment of this Act. The report shall, at a minimum, contain the following information for each location:~~ ~~(1) The extent to which the facility meet the safety and building codes and, if direct care is provided, the extent of compliance with Joint Commission on Accreditation of Health Care Organizations (JCAHO) standards.~~ ~~(2) The extent to which improvements, expansions, or relocation is necessary to meet program requirements, provide adequate services, or achieve building code compliance.~~ ~~(3) Any lease restriction that would hamper accomplishment of needed improvement, expansion, or relocation.~~ ~~(4) The term of the lease, if appropriate, the age of the structure, and the structure's life expectancy with and without improvement.~~ ~~(5) An assessment of the deficiencies of the facility.~~ ~~(b) Report. The report shall contain general recommendations for addressing the deficiencies of facilities in which programs funded under title V of the Indian Health Care Improvement Act are located and shall propose specific policies for accomplishing those recommendations.~~]	*The proposed amendment would extend the authorization of appropriations for carrying out this title through fiscal year 2012.* *The proposed amendment would repeal facilities survey and reporting requirements that are superseded by the proposed amendments to section 509.*
TITLE VI – ORGANIZATIONAL IMPROVEMENTS	
ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE **Sec. 601.** (a) In order to more effectively and efficiently carry out the	*This has been accomplished and should be amended accordingly or deleted.* *In further consideration of this*

responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian Tribes, as are or may be hereafter provided by the federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the President, by and with advice and consent of the Senate. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term. (b) The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department. (c) The Secretary shall carry out through the Director of the Indian Health Service– (1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Indian Health Service on such day; (2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians; and (3) all health programs under which health care is provided to Indians based upon their status s Indians which are administered by the Secretary, including (but not limited to programs under– (A) this Act; (B) the Act of November 2, 1921 (25 U.S.C.13); (C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.); (D) the Act of August 16, 1957. (42 U.S.C. et seq.); (E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.).; and (4) all scholarship and loan functions carried out under title I. (d)(1) The Secretary, acting through the Director of the Indian Health Service, shall have the authority– (A) except to the extent provided in paragraph (2), to appoint and compensate	*section we may want to add language regarding elevation of the Director of IHS to an Assistant Secretary, if the bills pending in Congress do not pass this year.*

employees for the Service in accordance with title 5, United States Code;

(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

(C) to manage, expend, and obligate all funds appropriated for the Service.

(2) Notwithstanding any other law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

~~{Sec. 602. DIRECTOR OF INDIAN HEALTH SERVICE~~

~~{(a) CONFIRMATION BY SENATE~~

~~{....~~

~~(2) **EFFECTIVE DATE.** The amendment made by paragraph (1) [requiring President's appointment and Senate confirmation] shall take effect January 1, 1993.~~

~~{(b) **INTERIM APPOINTMENT.** The President may appoint an individual to serve as Interim Director of the Service from January 1, 1993, until such time as a Director is appointed and confirmed as provided in section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.)...."}~~

~~[NOTE: Sec. 601 of P.L. 100-713 has a number of free-standing provisions that affect but are not part of Section 601 of P.L. 94-437 (above). For your convenience these provisions follow.]~~

~~ESTABLISHMENT OF THE INDIAN HEALTH SERVICE~~
~~AS AN AGENCY OF~~
~~THE PUBLIC HEALTH SERVICE~~

~~{"**Sec. 601.**~~
~~{....~~

(e) ~~{(b)~~ All personnel, records, equipment, facilities, and interests in property that are administered by the Indian Health Service on the day before the date on which the amendments made by this section take effect shall be transfered to the Indian Health Service established by the amendment made by subsection (a) of this section. All transfers must be accomplished within 9 months of the date of enactment of this section.

The Secretary is authorize to waive the Indian preference laws on a case-by-case basis for temporary transfers involved in implementing this section during such 9-month period.

(f) ~~{(c)~~(1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section.

(2) Notwithstanding subsections (e) ~~(b)~~ and (f) ~~(c)~~(1), any action which carries out such section 601 that is taken by the Secretary before the effective date of such section 601 shall be effective beginning on the date such action was taken.

(g) ~~{(d)~~ Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, Indian Health Service, Department of Health and Human Services.".~~}~~

AUTOMATED MANAGEMENT INFORMATION SYSTEM

Sec. 602. (a)(1) The Secretary shall establish an automated management information system for the Service.

(2) The information system established under paragraph (1) shall include–

(A) a financial management system,

(B) a patient care information system for each area served by the Service,

(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, ~~and~~

(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service,

(E) an interface mechanism for patient billing and accounts receivable system, and

(F) a training component.

(b)~~(1)~~ The Secretary shall provide each Indian Tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which–

(1) ~~(A)~~ meet the management information needs of such Indian Tribe or tribal organization with respect to the treatment by the Indian Tribe or tribal organization patients of the Service, and

(2) ~~(B)~~ meet the management information needs of the Service. ~~(2) The Secretary shall provide systems under paragraph (1) to Indian Tribes and tribal organizations providing health services in California by no later than September 30, 1990.~~ (c) Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.	
(d) The Secretary, acting through the Director of the Service, shall have the authority to enter into contracts, agreements or joint ventures with other federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.	We need to ensure that there is no conflict with the permanent self-governance legislation.
AUTHORIZATION OF APPROPRIATIONS **Sec. 603.** There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2012 ~~2000~~ to carry out this title.	Reauthorize and extend to the year 2012.

TITLE VII – BEHAVIORAL HEALTH ~~SUBSTANCE ABUSE~~ PROGRAMS

This Title has been substantially rewritten to combine Mental Health (formerly Sec. 209), Alcohol and Substance Abuse (originally in Title VII) and several behavioral health sections (formerly in Title VIII). Throughout, provisions have ben added to clarify that programs are subject to contracting and compacting by Tribes and tribal organizations. The term "funding" has been used throughout to replace "grants" in order to clarify that Tribes and tribal organizations can utilize contracts, compacts, grants, or other funding mechanisms, and are not limited to grants. Similarly, consultation requirements have been added. Urban Indian organizations are not included in the provisions of this title except in regard to planning and consultation functions, as well as where there were preexisting set-asides for their funding.

~~[NOTE: P.L. 101-630 included a free-standing provision affecting section 209, Indian Mental Health provisions. This language has been provided below for easy reference]~~ **~~MENTAL~~ BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES** **Sec. 701**. (a) PURPOSES.–The purposes of this section are to– (1) authorize and direct the Secretary, acting through the Indian Health Service, Indian Tribes, tribal organizations, and urban Indian organizations to develop a comprehensive ~~mental~~ behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs; (2) provide information, direction and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those federal, tribal, State and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement and judicial services;	*This section has been broadened to include all behavioral health disciplines.*

(3) assist Indian Tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior; (4) provide authority and opportunities for Indian Tribes to develop and implement, and coordinate with, community-based ~~mental health~~ programs which include identification, prevention, education, referral, and treatment services, including through multi-disciplinary resource teams; (5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to ~~mental~~ behavioral health services to which all citizens have access; and (6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).}	
~~Sec. 209~~. (~~b~~a) BEHAVIORAL HEALTH PLANNING ~~National Plan for Indian Mental Health Services.—~~ (1) ~~Not later than 120 days after the date of enactment of this section, t~~ The Secretary, acting through the Service, Indian Tribes, tribal organizations, and urban Indian organizations, shall encourage Indian Tribes and tribal organizations to develop tribal plans, and urban Indian organizations to develop local plans and for all such groups to participate in developing Area-wide ~~develop and publish in the federal Register, a final national~~ plans for Indian Behavioral ~~Mental~~ Health Services. The plans shall include, to the extent feasible, the following components – (A) an assessment of the scope of the problem of alcohol and/or other substance abuse, mental illness, ~~and~~ dysfunctional and self-destructive behavior, including suicide, child abuse and family violence, among Indians, including– (i) the number of Indians served ~~by the Service~~ who are directly or indirectly affected by such illness or behavior, and (ii) an estimate of the financial and human cost attributable to such illness or behavior; (B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in (c) of this section; and (C) an estimate of the additional funding needed by the Service, Indian Tribes, tribal organizations and urban Indian organizations to meet ~~its~~ their responsibilities under the plans. (2) The Secretary shall establish a national clearinghouse of plans and reports on the outcomes of such plans developed by Indian Tribes, tribal organizations and by Areas relating to Behavioral Health. The Secretary shall ensure access to these plans and	*The National Plan has been deleted as too costly and ineffective, and local tribal and Area plans have been encouraged in its place. In lieu of the National Plan, the Secretary is required to establish a national clearinghouse for local and Area plans and their outcomes which will be available to all Tribes. This section also sets out a lengthy list or definition of the continuum of care that should be available.* *Section 814, Infant and Maternal Mortality; Fetal Alcohol Syndrome, also required planning to achieve certain health objectives. It has been deleted in favor of the national health objectives in Section 3 and the other planning processes required by Section 701.*

outcomes by any Indian Tribe, tribal organization, urban organization or the Service. ~~(2) The Secretary shall submit a copy of the national plan to the Congress by January 2, 2001.~~ (3) The Secretary shall provide technical assistance to Indian Tribes, tribal organizations, and urban Indian organizations in preparation of their plans and in developing standards of care that may be utilized and adopted locally. ~~(3) The Secretary shall submit an evaluation of the national plan, based on the health status goals and outcome measures identified in section 3(b), to the Congress every three years following the enactment of this Act.~~	
(c) CONTINUUM OF CARE — The Secretary, acting through the Service, Indian Tribes and tribal organizations, shall provide, to the extent feasible and funding is available, programs including, but not limited to — (1) a comprehensive continuum of behavioral health care which provides: (A) community based prevention, intervention, outpatient and behavioral health aftercare; (B) detoxification (social and medical); (C) acute hospitalization; (D) intensive outpatient/day treatment; (E) residential treatment; (F) transitional living for those needing a temporary stable living environment that is supportive of treatment/recovery goals; (G) emergency shelter; (H) intensive case management; and (I) traditional health care practices. (2) behavioral health services by the following services and populations: (A) Child Behavioral Health Services for persons from birth through age 17, including: (i) Pre-school and school age fetal alcohol disorder services, including assessment and behavioral intervention); (ii) Mental health/substance abuse services (emotional, organic, alcohol, drug, inhalant and tobacco); (iii) Co-occurring disorders (multiple diagnosis); (iv) Prevention focused on ages 5 – 10 (alcohol, drug, inhalant and tobacco); (v) Early intervention, treatment and aftercare focused on ages 11 – 17; (vi) Healthy choices/life style (related to STD's, domestic violence, sexual abuse; suicide, teen pregnancy, obesity, and other risk/safety issues); (vii) Co-morbidity. (B) Adult Behavioral Health Services (age 18 – 55);	

(i) Early intervention, treatment and aftercare (ii) Mental health/Substance abuse services (emotional, alcohol, drug, inhalant and tobacco) (iii) Co-occurring disorders (dual diagnosis) and co-morbidity; (iv) Healthy choices/Life style (related to parenting, partners, domestic violence, sexual abuse, suicide, obesity, and other risk related behavior) (v): (I) Treatment services for women at risk of giving birth to a chihld with a fetal alcohol disorder; (II) Treatment for substance abuse requiring gender specific services; (III) Treatment for sexual assault and domestic violence; (IV) Healthy choices/Life style (parenting, partners, obesity, suicide and other related behavioral risk); (vi) Men specific: (I) Treatment for substance abuse requiring gender specific services; (II) Treatment for sexual assault and domestic violence; (III) Healthy choices/Life style (parenting, partners, obesity, suicide and other risk related behavior); (C) Family Behavioral Health Services: (i) Early intervention, treatment and aftercare for affected families; (ii) Treatment for sexual assault and domestic violence; (iii) Healthy choices/Life style (related to parenting, partners, domestic violence and other abuse issues); (D) Elder Behavioral Health Services (age 56 and above): (i) Early intervention, treatment and aftercare; (I) Mental health/Substance abuse services (emotional, alcohol, drug, inhalant and tobacco) (II) Co-occurring disorders (dual diagnosis) and co-morbidity; (III) Healthy choices/Life style (managing conditions related to aging); (ii) Elder women specific: (I) Treatment for substance abuse requiring gender specific services (II) Treatment for sexual assault, domestic violence and neglect; (iii) Elder men specific: (I) Treatment for substance abuse requiring gender specific services; (II) Treatment for sexual assault, domestic violence and neglect; (iv) Dimentias regardless of cause.	
(d) COMMUNITY BEHAVIORAL ~~MENTAL~~ HEALTH PLAN.– (1) The governing body of any Indian Tribe or tribal organization or urban Indian organization may, at its discretion, adopt a resolution for the establishment of a community behavioral ~~mental~~ health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat alcohol and other substance abuse, mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members and/or its service population. This	

plan should include, but not be limited to, behavioral health services, social services, intensive outpatient services, and continuing after care. (2) In furtherance of a plan established pursuant to paragraph (1) and at the request of a Tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the Indian Tribe or tribal organization in the development of such plan. Upon the establishment of such a plan and at the request of the Indian Tribe or tribal organization, such officials~~, as directed by the memorandum of agreement developed pursuant to subsection (c),~~ shall cooperate with the Indian Tribe or tribal organization in the implementation of such plan. ~~(3) Two or more Indian Tribes may form a coalition for the adoption of resolutions and the establishment and development of a joint community behavioral mental health plan under this subsection and such a tribal organization shall be entitled to support that would otherwise be made available to an Indian Tribe under paragraph (2).~~ (3~~4~~) The Secretary, acting through the Service, may make funding available ~~grants~~ to Indian Tribes and tribal organizations adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community mental health plan and to provide administrative support in the implementation of such plan.	
(e) COORDINATED PLANNING. The Secretary, acting through the Service, Indian Tribes, tribal organizations, and urban Indian organizations shall coordinate behavioral health planning, to the extent feasible, with other federal agencies and with State agencies, to encourage comprehensive behavioral health services are available to Indians without regard to their place of residence.	
(f) ~~(i)~~ FACILITIES ASSESSMENT.– Within one year after the date of enactment of this section, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.	*Section 209(i) Facilities Assessment is incorporated in this section as subsection (f)*
MEMORANDA ~~UM~~ OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR ~~.–~~ **Sec. 702.** (a)Not later than ~~180 days~~ twelve months after the date of enactment of this section, the Secretary and the Secretary of the Interior shall develop and enter into ~~a~~ memoranda ~~um~~ of agreement, or review and update any existing memoranda of agreement, as required by section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) and under which the Secretaries address ~~shall, among other things~~ (1) ~~determine and define~~ the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians; (2) ~~make an assessment of~~ the existing federal, tribal, State, local, and private	*This section merges subsection (b) of Section 209, Mental Health Prevention and Treatment Services, with former Section 701, Indian Health Services Responsibilities. The objective of the amendment is to combine these requirements and to ensure that the agencies update their Agreements. The specific requirements of former Section 701 are found in the new Section 702(b).*

services, resources, and programs available to provide mental health services for Indians;

(3) ~~make an initial determination of~~ the unmet need for additional services, resources, programs necessary to meet the needs identified pursuant to paragraph (1);

(4)(A) the right of ~~ensure that~~ Indians, as citizens of the United States and of the States in which they reside, to have access to mental health services to which all citizens have access;

(B) ~~determine~~ the right of Indians to participate in, and receive the benefit of, such services; and

(C) take actions necessary to protect the exercise of such right;

(5) ~~delineate~~ the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multi disciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

(6) ~~provide~~ a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs an the Service to meet the needs identified pursuant to paragraph (1), including–

(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various Indian Tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

(B) ensuring that the Bureau of Indian Affairs and Service programs and services (including multi-disciplinary resource teams) addressing child abuse and family violence are coordinated with such non-federal programs and services;

(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) ~~subsection (d)~~ and Section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. § 2412); and

(8) provide for an annual review of such agreement by the two Secretaries which shall be provided to Congress and the Indian Tribes.

~~**INDIAN HEALTH SERVICE RESPONSIBILITIES**~~

~~**SEC. 701.**~~ (b) The Memoranda~~um~~ of Agreement updated or entered into pursuant to subsection (a) ~~4205 of the Indian Alcohol and Substance Abuse Prevention~~

~~and Treatment Act of 1986 (25 U.S.C. 2411)~~ shall include specific provisions pursuant to which the Service shall assume responsibility for-- (1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost; (2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and (3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.	
(c) CONSULTATION.— The Secretary and the Secretary of the Interior shall in developing the Memoranda of Agreement under subsection (a) of this section consult with and solicit the comments of— (1) Indian Tribes and tribal organizations, (2) Indian individuals; (3) urban Indian organizations and other Indian organizations; (4) behavioral health service providers. **(d) PUBLICATION.—** The Memoranda of Agreement under subsection (a) of this section shall be published in the federal Register. At the same time as publication in the federal Register, the Secretary shall provide a copy of such Memoranda to each Indian Tribe, tribal organization, and urban Indian organization.	*These subsections are modeled after subsections (c) and (d) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.*

~~INDIAN HEALTH SERVICE PROGRAM~~ **COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.--** **SEC. 703 ~~702.~~** (a)(1) The Secretary, acting through the Service, Indian Tribes and tribal organizations, consistent with Section 701, shall provide a program of comprehensive behavioral health ~~alcohol and substance abuse~~ prevention ~~and~~ treatment, and aftercare including Traditional health care practices, which shall include-- (A) prevention, through educational intervention, in Indian communities; (B) acute detoxification and/or psychiatric hospitalization and treatment (residential and intensive outpatient); (C) community-based rehabilitation and aftercare; (D) community education and involvement, including extensive training of health care, educational, and community-based personnel; and (E) specialized residential treatment programs for high risk populations, including but not limited to pregnant and post partum women and their children. (2) The target population of such program shall be members of Indian Tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs. (b) **CONTRACT HEALTH SERVICES.--**(1) The Secretary, acting through the Service (with the consent of the Tribe to be served), Indian Tribes and tribal organizations, may, enter into contracts with public or private providers of ~~alcohol and substance abuse~~ behavioral health treatment services for the purpose of ~~assisting the Service in~~ carrying out the program required under subsection (a). (2) In carrying out this subsection, the Secretary shall provide assistance to Indian Tribes and tribal organizations to develop criteria for the certification of behavioral health ~~alcohol and substance abuse~~ service providers and accreditation of service facilities which meet minimum standards for such services and facilities ~~as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411(a)(3))~~.	*Revisions have been made to clarify that Tribes and tribal organizations can provide these services and to include Traditional health care practices. The section has been expanded to include functions which Tribes believe are necessary as part of this program.*
MENTAL HEALTH TECHNICIAN PROGRAM **Sec. 704 ~~209(g)~~** (a ~~1~~) Under the authority of the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Secretary shall establish and maintain a Mental Health Technician program within the Service which– (1~~A~~) provides for the training of Indians as mental health technicians; and	This section remains unchanged from the former Sec. 209(g).

(2~~B~~) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services. (b~~2~~) In carrying out paragraph (1)(A), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care. (c~~3~~) The Secretary shall supervise and evaluate the mental health technicians in the training program. (d~~4~~) The Secretary shall ensure that the program established pursuant to this subsection involves the utilization and promotion of the traditional ~~Indian~~ health care ~~and treatment~~ practices of the Indian Tribes to be served.	
LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS **Sec. 705 ~~209(l)~~**. Subject to the provisions of Section 220 of this Act, any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a ~~contract~~ funding agreement pursuant to the Indian Self-Determination and Education Assistance Act shall– (a~~1~~) in the case of a person employed as a psychologist, be licensed as a clinical psychologist or working under the direct supervision of a licensed clinical psychologist; (b~~2~~) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or (c~~3~~) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.	
INDIAN WOMEN TREATMENT PROGRAMS **SEC. 706 ~~703~~.** (a) The Secretary, consistent with Section 701, shall ~~may~~ make funding available ~~grants~~ to Indian Tribes, tribal organizations, and urban Indian organizations to develop and implement a comprehensive behavioral health ~~alcohol and substance abuse~~ program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, historical, social, and child care needs of Indian women, regardless of age. (b) Funding ~~Grants~~ made available pursuant to this section may be used to--	*This section has been revised to make funding available under the ISDEAA and to focus on behavioral health which is broader in scope than just alcohol and substance abuse. Traditional practices have also been included.*

(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including ~~alcohol and substance abuse issues, including~~ fetal alcohol disorders ~~syndrome and fetal alcohol effect~~; (2) identify and provide ~~appropriate~~ psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and (3) develop prevention and intervention models for Indian women which incorporate Traditional ~~healers~~ health care practices, cultural values, and community and family involvement. (c) The Secretary, in consultation with Indian Tribes and tribal organizations, shall establish criteria for the review and approval of applications and proposals for funding ~~grants~~ under this section.	
(d)~~(1) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.~~ ~~(2)~~ Twenty percent of the funds appropriated pursuant to this ~~sub~~section shall be used to make grants to urban Indian organizations funded under title V.	*The funding set-aside for urban programs which was part of the original legislation has been retained.*
INDIAN ~~HEALTH SERVICE~~ YOUTH PROGRAM **SEC. 707 ~~704~~.** (a) **DETOXIFICATION AND REHABILITATION.**--The Secretary consistent with Section 701, shall develop and implement a program for acute detoxification and treatment for Indian youth including behavioral health services ~~who are alcohol and substance abusers~~. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian Tribes or tribal organizations at the local level under the Indian Self-Determination and Education Assistance Act. ~~These r~~ Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.	*The programs for Indian Youth are to include at least one YRTC in each Area, and at least two in California where networks may be established. Tuscon and Phoenix are no longer considered one Area for the purpose of these provisions.*
(b) **ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.**--(1) The Secretary, acting through the Service, Indian Tribes or tribal organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least one ~~a~~ youth regional treatment center or treatment network in each area under the jurisdiction of an area office. For the purposes of this subsection, ~~the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and~~ the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks. (2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13). (3) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the Indian Tribess to be	*Although it was decided to exclude three individual tribal programs which asked to be specifically named in this section, the provisions which required tribal programs in Alaska to serve all eligible Indians have been retained along with the descriptions of the two Alaska programs which were originally were included in the Act. The requirements for consultation have also been expanded throughout this section.*

served by such center. (4)(A) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to-- (i) the Tanana Chiefs Conference, Incorporated, for purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska; and (ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)) (B) Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.	
(c ~~m~~) **INTERMEDIATE ADOLESCENT ~~MENTAL~~ BEHAVIORAL HEALTH SERVICES. –** (1) The Secretary, acting through the Service, Indian Tribes and tribal organizations, may, ~~consistent with Section 701, make funding grants available to Indian Tribes and tribal organizations to~~ provide intermediate ~~mental~~ behavioral health services, which may incorporate traditional health care practices, to Indian children and adolescents, including– (A) pre-treatment assistance; (~~A~~B) inpatient, ~~and~~ outpatient, and after-care services; (~~B~~C) emergency care; (~~C~~D) suicide prevention and crisis intervention; and (~~D~~ E) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence. (2) Funds provided under this subsection may be used– (A) to construct or renovate an existing health facility to provide intermediate ~~mental~~ behavioral health services; (B) to hire ~~mental~~ behavioral health professionals; (C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate ~~mental~~ behavioral health services are being provided; ~~and~~	*This was subsection (m), Intermediate Adolescent Mental Health Services, of Section 209, Mental Health Prevention and Treatment Services. Its focus has been changed from mental health to behavioral health and traditional health care practices have been added.*

(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and (E) intensive home and community based services.	
(3) ~~Funds provided under this subsection may not be used for the purposes described in section 216(b)(1).~~ ~~(4) An Indian Tribe or tribal organization receiving~~ funding ~~a grant under this subsection shall ensure that intermediate adolescent mental~~ behavioral ~~health services are coordinated with other tribal, Service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such Tribe or tribal organization.~~ The Secretary shall, in consultation with Indian Tribes and tribal organizations, establish criteria for the review and approval of applications or proposals for funding ~~grants~~ made available pursuant to this subsection.	*Paragraph (3) was deleted because the requirement that existed under section 216(b)(1) for matching funds has been eliminated in the proposed amendment found at the new subsection (h) of this section.*
(d ~~e~~) **FEDERALLY OWNED STRUCTURES.--** (1) The Secretary, acting through the Service, shall, in consultation with Indian Tribes and tribal organizations— (A)identify and use, where appropriate, federally owned structures suitable for ~~as~~ local residential or regional behavioral health ~~alcohol and substance abuse~~ treatment ~~centers~~ for Indian youth; and (B)establish guidelines, in consultation with Indian Tribes and tribal organizations, for determining the suitability of any such federally owned structure to be used for ~~as a~~ local residential or regional behavioral health ~~alcohol and substance abuse~~ treatment ~~center~~ for Indian youth. (2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Tribe or tribal organization operating the program.	
(e ~~d~~) **REHABILITATION AND AFTERCARE SERVICES.--** (1) The Secretary, Indian Tribes or tribal organizations, in cooperation with the Secretary of the Interior, shall develop and implement within each ~~Service,~~ service unit, community-based rehabilitation and follow-up services for Indian youth who are having significant behavioral health problems, and require ~~alcohol or substance abusers which are designed to integrate~~ long-term treatment, community reintegration and ~~to~~ monitoring to ~~and~~ support the Indian youth after their return to their home community. (2) Services under paragraph (1) shall be administered within each service unit or tribal program by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff ~~shall~~ may include alcohol and substance abuse counselors, mental health professionals, and other health professionals	This section was formerly Sec. 704(d). Its focus has been changed from substance and alcohol abuse to behavioral health problems which is the broader term encompassing all such problems.

and paraprofessionals, including community health representatives. (f e) **INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.**--In providing the treatment and other services to Indian youth authorized by this section, the Secretary, Indian Tribes and tribal organizations shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.	
(g f) **MULTIDRUG ABUSE PROGRAM STUDY.**--(1) The Secretary, acting through the Service, Indian Tribes, tribal organizations and urban Indian organizations, shall provide, consistent with Section 701, programs and services to prevent and treat conduct a study to determine the incidence and prevalence of the abuse of multiple forms of substances drugs, including, but not limited to, alcohol, drugs, inhalants and tobacco, among Indian youth residing in Indian communities, on Indian reservations and in urban areas and provide appropriate mental health services to address the interrelationship of such abuse with the incidence of mental illness among such youth. (2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.	*This provision has been changed from a study to an ongoing program.*
INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION AND STAFFING ASSESSMENT **Sec. 708 316** Within one year after the date of enactment of this section, the Secretary, acting through the Service, Indian Tribes and tribal organizations, shall provide , in each area of the Service, make an assessment of the need for not less than one inpatient mental health care facility, or the equivalent, among for Indians with behavioral health problems. For the purposes of this subsection, California shall be considered to be two area offices, one office whose location shall be considered to encompass the northern area of the State of California and one office whose jurisdiction shall be considered to encompass the remainder of the State of California and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, tThe Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.	*This section has been moved from Title III and expanded to provide authorization to establish inpatient mental health facilities in each Area for Indians with behavioral health problems. The allocation of facilities is to be the same as for YRTC's.*
TRAINING AND COMMUNITY EDUCATION **SEC. 709 705.** (a) **COMMUNITY EDUCATION.**--The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement or provide funding for Indian Tribes and tribal organizations to develop and implement within each service unit or tribal program a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education about behavioral health issues in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, health care providers including traditional practitioners, and other critical members of each tribal community. Community based training (oriented toward local capacity development)	*This section has been revised to allow Tribes and tribal organizations to operate these programs.*

shall also include tribal community provider training (designed for adult learners from the communities receiving services for prevention, intervention, treatment and aftercare). (b) **TRAINING.**--The Secretary shall, either directly or through Indian Tribes and tribal organizations ~~by contract~~, provide instruction in the area of ~~alcohol and substance abuse~~ behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol ~~syndrome~~ disorders to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433). (c) **COMMUNITY-BASED TRAINING MODELS.**--In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with Indian Tribes, tribal organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address-- (1) the elevated risk of alcohol and ~~substance abuse~~ behavioral health problems faced by children of alcoholics; (2) the cultural, spiritual and multigenerational aspects of behavioral health problem ~~alcohol and substance abuse~~ prevention and recovery; and (3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems ~~alcohol and substance abuse~~.	
BEHAVIORAL ~~MENTAL~~ HEALTH ~~DEMONSTRATION GRANT~~ PROGRAM. **Sec. 710 ~~209~~** ~~(k)~~(a~~1~~) The Secretary, acting through the Service, Indian Tribes or tribal organizations, consistent with Section 701, may ~~is authorized to make funding grants~~ available ~~to Indian Tribes and inter-tribal organizations consortia to pay 75 percent of for the cost of~~ plan~~ning~~, develop~~ing~~, ~~and~~ implement~~ing~~ and carry~~ing~~ out programs to deliver innovative community-based behavioral ~~mental~~ health services to Indians. ~~The 25 percent tribal share of such cost may be provided in cash or through the provision of property or services.~~ (b2) The Secretary may award such funding ~~a grant~~ for a project under paragraph (a~~1~~) to an Indian Tribe or ~~inter-~~tribal organization ~~consortium~~ and may consider the ~~which meets~~ the following criteria: (1~~A~~) The project will address significant unmet behavioral ~~mental~~ health needs among Indians. (2~~B~~) The project will serve a significant number of Indians.	*This section was subsection (k) of Section 209, Mental Health Prevention and Treatment Services. It has been revised to authorize funding for development of community-based behavioral health services. The requirement for matching funds has been eliminated. Its intent is to fund innovative projects.*

(3~~C~~) The project has the potential to deliver services in an efficient and effective manner. (4~~D~~) The Tribe or tribal organization ~~consortium~~ has the administrative and financial capability to administer the project. (5~~E~~) The project ~~will~~ may deliver services in a manner consistent with traditional health care ~~Indian healing and treatment~~ practices. (6~~F~~) The project is coordinated with, and avoids duplication of, existing services. (c~~3~~) For purposes of this subsection, the Secretary shall, in evaluating applications or proposals for funding ~~grants~~ for projects to be operated under any funding agreement ~~contract~~ entered into with the Service under the Indian Self-Determination Act and Education Assistance Act, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding ~~a grant~~. ~~(4) The Secretary may only award one grant under this subsection with respect to a service area until the Secretary has awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria specified in paragraph (2).~~ ~~(5) Not later than 180 days after the close of the term of the last grant awarded pursuant to this subsection, the Secretary shall submit to the Congress a report evaluating the effectiveness of the innovative community-based projects demonstrated pursuant to this subsection. Such report shall include findings and recommendations, if any, relating to the reorganization of the programs of the Service for delivery of mental health service to Indians.~~ ~~(6) Grants made pursuant to this section may be expended over a period of three years and no grant may exceed $1,000,000 for the fiscal years involved.~~	
FETAL ALCOHOL DISORDER ~~SYNDROME AND FETAL ALCOHOL EFFECT~~ ~~GRANTS~~ FUNDING **Sec. 711 . ~~708~~** (a)(1) The Secretary, consistent with Section 701, acting through Indian Tribes, tribal organizations, and urban Indian organizations, shall ~~may make funding available grants to Indian Tribes and tribal organizations and urban Indian organizations to~~ establish and operate fetal alcohol disorders ~~syndrome and fetal alcohol effect~~ programs as provided in this section for the purposes of meeting the health status objectives specified in section 3(b). (2) Funding ~~Grants made~~ provided pursuant to this section shall be used to-- (A) develop and provide community and in-school training, education, and ;	*All of the types of fetal alcohol problems, including FAS, partial FAS, and Alcohol Related Neurodevelopmental Disorders, have been grouped in the definitions under Fetal Alcohol Disorders. Each of these terms also is defined separately as well. This construct is based on the most current material from the National Institutes of Health. Revisions have been made to allow these programs to be funded under the ISDEAA rather than solely under grants. Reporting requirements have all been moved*

prevention programs relating to fetal alcohol disorders ~~FAS and FAE~~; (B) identify and provide behavioral health ~~alcohol and substance abuse~~ treatment to high-risk women; (C) identify and provide appropriate psychological services, educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder ~~FAS and FAE~~ affected persons and their families or caretakers; (D) develop and implement counseling and support programs in schools for fetal alcohol disorder ~~FAS and FAE~~ affected children; (E) develop prevention and intervention models which incorporate traditional ~~healers~~ practitioners, cultural and spiritual values and community involvement; (F) develop, print, and disseminate education and prevention materials on fetal alcohol disorders ~~FAS and FAE~~; ~~and~~ (G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in tribal and urban Indian communities; (H) develop early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorders; and (I) develop and fund community-based adult fetal alcohol disorder housing and support services. (3) The Secretary shall establish criteria for the review and approval of applications for funding ~~grants~~ under this section. (b) The Secretary, acting through the Service, Indian Tribes, tribal organizations and urban Indian organizations, shall-- (1) develop and provide services ~~an annual plan~~ for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorders ~~FAS and FAE~~ in Indian communities; and (2) provide supportive services, directly or through an Indian Tribe, tribal organization or urban Indian organization, including, which services shall include but not be limited to, ~~conduct a study, directly or by contract with any organization, entity, or institution of higher education with significant knowledge of fetal alcohol disorders FAS and FAE and Indian communities, of the~~ meeting the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians ~~and Alaska Natives~~ with fetal alcohol disorders. ~~FAS or FAE; and~~	*to Sec. 801, as appropriate.*

~~(3) establish a national clearinghouse for prevention and educational materials and other information on the effect of fetal alcohol disorders FAS and FAE effect in Indian and Alaska Native communities and ensure access to clearinghouse materials by any Indian Tribe, tribal organization or urban Indian organization.~~ (c) The Secretary shall establish a task force to be known as the Fetal Alcohol Disorders ~~FAS/FAE~~ Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the National Institute of Child Health & Human Development (NICHD), Centers for Disease Control and Prevention, the Bureau of Indian Affairs, Indian Tribes, tribal organizations, urban Indian communities, and Indian fetal alcohol disorders ~~FAS/FAE~~ experts. (d) The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make funding available ~~grants~~ to Indian Tribes, tribal organizations, ~~universities working with Indian Tribes and tribal organizations on cooperative projects,~~ and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and urban Indians affected by fetal alcohol disorders ~~FAS or FAE~~.	
~~(e)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the status of fetal alcohol disorders FAS and FAE in the Indian population. Such report shall include, in addition to the information required under section 3(d) with respect to the health status objective specified in section 3(b)(27), the following:~~ ~~(A) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally service delivery systems.~~ ~~(B) The incidence of fetal alcohol disorders FAS and FAE babies born for all births by reservation and urban-based sites.~~ ~~(C) The prevalence of fetal alcohol disorders FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.~~ ~~(D) The level of support received from the entities specified in subsection (c) in the area of fetal alcohol disorders FAS and FAE.~~ ~~(E) The number of inpatient and outpatient substance abuse treatment resources which are specifically designed to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.~~	*Reporting provisions are included in the general section on reports.*

~~(F) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for~~ fetal alcohol disorders ~~FAS and FAE affected individuals in Indian communities.~~ ~~(2) The Secretary may contract the production of this report to a national organization specifically addressing~~ fetal alcohol disorders ~~FAS and FAE in Indian communities.~~ (e) ~~(f)(1) There are authorized to be appropriated to carry out this section $22,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.~~ ~~(2)~~ Ten percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations funded under title V.	*The existing set-aside for urban programs has been retained.*
CHILD SEXUAL ABUSE AND PREVENTION ~~DEMONSTRATION~~ TREATMENT PROGRAMS **Sec. 712 .** ~~**Sec. 819.**~~ ~~The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.~~ ~~(b) Beginning October 1, 1995, (a 1)~~ The Secretary and the Secretary of the Interior, acting through the Service, Indian Tribes and tribal organizations, shall ~~may~~ establish, consistent with Section 701, in ~~any~~ every service area, ~~demonstration~~ programs involving treatment for (a) victims of child sexual abuse; and, (b) perpetrators of child sexual abuse.~~, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).~~ (b) Funding provided pursuant to this section shall be used to – (1) Develop and provide community education and prevention programs related to child sexual abuse; (2) Identify and provide behavioral health treatment to children who are victims of sexual abuse and to their families who are affected by sexual abuse; (3) Develop prevention and intervention models which incorporate traditional health care practitioners, cultural and spiritual values, and community involvement; (4) Develop and implement, though the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.	*This section has been revised to provide for a program to treat both the victims and the perpetrators of child sexual abuse, and to provide general guidelines for programs established relating to child sexual abuse.*

(5) Identify and provide behavioral health treatment to perpetrators. (A) Efforts will be made to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated , and (B) Treatment should be provided after release to the community, until it is determined that the perpetrator is not a threat to children.	
BEHAVIORAL ~~MENTAL~~ HEALTH RESEARCH.– **Sec. 713 ~~209(h).~~** The Secretary, acting through the Service and in consultation with appropriate federal agencies ~~the National Institute of Mental Health~~, shall provide funding to Indian Tribes, tribal organizations and urban Indian organizations or, enter into contracts with, or make grants to appropriate institutions for the conduct of research on the incidence and prevalence of ~~mental disorders~~ behavioral health problems among Indians served by the Service, Indian Tribes or tribal organizations ~~on Indian reservations~~ and among Indians in urban areas. Research priorities under this ~~sub~~section shall include– (1) the inter-relationship and inter-dependance of ~~mental disorders~~ behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries ~~accidents~~, and the incidence of family violence, and (2) the development of models of prevention techniques. The effect of the inter-relationships and interdependencies referred to in paragraph (1) on children, and the development of prevention techniques under paragraph (2) applicable to children, shall be emphasized.	This Section was a subsection of Section 209, Mental Health Prevention and Treatment Services. It has been expanded to allow Indian Tribes and tribal organizations to obtain funding for this research.
DEFINITIONS **Sec. 714.** For the purpose of this Title, the following definitions shall apply: (a) "Assessment" means the systematic collection, analysis and dissemination of information on health status, health needs and health problems. (b) "Alcohol related neurodevelopmental disorders" or "ARND" means with a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities. Behaviorally, there can be problems with irritability, and failure to thrive as infants. As children become older there will likely be hyperactivity, attention deficit, language dysfunction and perceptual and judgement problems. (c) "Behavioral health" means the blending of substances (alcohol, drugs, inhalants and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services. This can include the joint development of substance abuse and mental health treatment planning and coordinated case	

management using a multidisciplinary approach. (d) "Behavioral health aftercare" includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse or mental health outpatient and/or outpatient treatment. The purpose is to help prevent or deal with relapse. By the time a client/patient is discharged from a level of care, such as outpatient treatment, an aftercare plan has been developed with the client. An aftercare plan may use such resources as community base therapeutic group, transitional living, a twelve-step sponsor, a local twelve-step and/or other related support group, and/or other community based providers (mental health professionals, traditional health care practitioners, community health aides, community health representatives, mental health technicians, ministers, etc.) (e) "Dual diagnosis" means coexisting substance abuse and mental illness conditions and/or diagnosis. Patients/clients are sometimes referred to as mentally ill chemical abusers (MICAs). (f) "Fetal alcohol disorders" means fetal alcohol syndrome, partial fetal alcohol syndrome, and/or alcohol related neural developmental disorder (ARNDD). (g) "Fetal alcohol syndrome" or "FAS" means a syndrome in which with a history of maternal alcohol consumption during pregnancy, the following criteria should be met : (1) Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities; (2) Craniofacial abnormalities with at least two of the following: microphthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose; (3) Prenatal or postnatal growth delay. (h) "Partial FAS" means with a history of maternal alcohol consumption during pregnancy having most of the criteria of FAS, though not meeting a minimum of at least two of the following: micro-ophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, short upturned nose. (i) "Rehabilitation" means to restore the ability or capacity to engage in usual and customary life activities through education and therapy. (j) "Substance abuse" includes inhalant abuse.	
~~**REPORTS**~~	*This section has been deleted as all reports are covered in Sec. 801.*

~~**Sec. 707. (a) COMPILATION OF DATA.** The Secretary, with respect to the administration of any health program by a service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents in which any Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.~~ ~~(b) **REFERRAL OF DATA.** The data compiled under subsection (a) shall be provided annually to the affected Indian Tribe and tribal Coordinating Committee to assist them in developing or modifying a tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).~~ ~~(c) **COMPREHENSIVE REPORT.** Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected Tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.~~	
~~(d)~~ (j) **ANNUAL REPORT.** ~~The Service shall develop methods for analyzing and evaluating the overall status of mental health programs and services for Indians and shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the mental health status of Indians which shall describe the progress being made to address mental~~ behavioral ~~health problems of Indian communities.~~	*This subsection was moved from Section 209, Mental Health Prevention and Treatment Services. It should likewise be deleted and covered in Section 801.*
	Section 711, Substance Abuse Counselor Education Demonstration Project, has been moved to Title I.
~~**GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER**~~ ~~**SEC. 706.** (a) **GRANTS FOR RESIDENTIAL TREATMENT.** The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring Tribes.~~ ~~(b) **PURPOSES OF GRANTS.** Grants made pursuant to this section shall (to the extent appropriations are made available) be used to –~~ ~~(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;~~ ~~(2) establish clinical assessment teams consisting of a clinical psychologist, a part-time addictionologist, a master's level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;~~ ~~(3) provide at least 12 beds for an adolescent shelter bed program in the city of~~	*This has been funded already and is part of the recurring base, so no further authorization is necessary. Therefore, it can be deleted from the Act.*

~~Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;~~ ~~(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and~~ ~~(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.~~ ~~(c) **CONTRACT FOR RESIDENTIAL TREATMENT.** The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b).~~ ~~(d) **AUTHORIZATION OF APPROPRIATIONS.** There are authorized to be appropriated for each of fiscal years 1996 through 2000, such sums as may be necessary to carry out subsection (b).~~	
~~**PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO**~~ ~~**SEC. 709.** The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.~~	*This program has been funded and is part of the recurring base funding so can be deleted from the Act.*
~~**THUNDER CHILD TREATMENT CENTER**~~ ~~**SEC. 710.** (a) The Secretary, acting through the Service, shall make a grant to the Intertribal Addictions Recovery Organization, Inc. (commonly known as the Thunder Child Treatment Center) at Sheridan, Wyoming, for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of Indians.~~ ~~(b) For the purposes of carrying out subsection (a), there are authorized to be appropriated $2,000,000 for fiscal years 1993 and 1994. No funding shall be available for staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) shall be used for administrative purposes.~~	*This program has been funded and is part of the recurring base funding so can be deleted from the Act.*
~~**STANDING ROCK SIOUX COMMUNITY BASED DEMONSTRATION PROJECT**~~ ~~**Sec. 702 (c) GRANTS FOR MODEL PROGRAM.** (1) The Secretary, acting through the Service shall make a grant to the Standing Rock Sioux Tribe to develop a community based demonstration project to reduce drug and alcohol abuse on the~~	*This section was moved from Section 702, Indian Health Service Program. This program and has been funded and is part of the recurring base funding so can be deleted from the Act.*

~~Standing Rock Sioux Reservation and to rehabilitate Indian families afflicted by such abuse.~~ ~~(b)(2) Funds shall be used by the Tribe to –~~ ~~(1)(A) develop and coordinate community based alcohol and substance abuse prevention and treatment services for Indian families;~~ ~~(2)(B) develop prevention and intervention models for Indian families;~~ ~~(3)(C) conduct community education on alcohol and substance abuse; and~~ ~~(4)(D) coordinate with existing federal, State, and tribal services on the reservation to develop a comprehensive alcohol and substance abuse program that assists in the rehabilitation of Indian families that have been or are afflicted by alcoholism.~~ ~~(c)(3) The Secretary shall submit to the President for inclusion in the report to be transmitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under paragraph (1).~~	
~~**GILA RIVER ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY**~~ ~~**Sec. 712.** (a) The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Community, by the Service from such Community.~~ ~~(b) The center established pursuant to this section shall be known as the "Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center".~~ ~~(c) The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Fallon, Nevada.~~	*This program and has been funded and is part of the recurring base funding so can be deleted from the Act.*

~~**ALASKA NATIVE DRUG AND ALCOHOL ABUSE DEMONSTRATION PROJECT**~~ ~~**SEC. 713.** (a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be used by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary's, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.~~ ~~(b) The Secretary shall submit to the President for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under subsection (a).~~	*This section has never been implemented. The Alaska Area recommends its deletion in favor of more pressing needs.*
AUTHORIZATION OF APPROPRIATIONS **Sec. 715 ~~714.~~** ~~Except as provided in sections 703, 706, 708, 710, and 711,~~ ~~t~~There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year ~~2000~~ 2012 to carry out the provisions of this title. **~~[NOTE: Sections 702(B) of P.L. 102-573 repealed Part 6 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act, P.L. 99-570 except for section 4224 which was redesignated as section 4208A and moved to Part II. Title VII above now includes former Part 6 Provisions as amended by P.L. 102-573.]~~**	

TITLE VIII – MISCELLANEOUS

Introductory Comments:

1. *All of the sections related to the other titles have been moved to those titles.*

2. *All of the contract health related provisions have been m oved to Title II.*

3. *A majority of the Free Standing and Severability provisions were incorporated into Title VIII.*

REPORTS **Sec. 801.** The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing-- (1) a report on the progress made in meeting the objectives of this Act, including a review of programs -established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of~~,~~ the general population including specific comparisons of appropriations	*To the extent program or outcome measures are required throughout the Act, they should be reported under this section.*

provided and those required for such parity;

(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian Tribes, tribal organizations and urban Indian organizations to address such impact, including a report on proposed changes in allocation of funding pursuant to section 808;

(3) a report on the use of health services by Indians--

(A) on a national and area or other relevant geographical basis;

(B) by gender and age;

(C) by source of payment and type of service; and

(D) comparing such rates of use with rates of use among comparable non-Indian populations.

(E) on the services provided under funding agreements pursuant to the Indian Self-Determination and Education Assistance Act.

(4) a report of contractors to the Secretary on Health Care Educational Loan Repayments every six months required by section 110;

(5) a General Audit Report of the Secretary on the Health Care Educational Loan Repayment Program as required by section 110(n);

(6) a separate statement which specifies the amount of funds requested to carry out the provisions of section 201;

(7) a biennial report to Congress on infectious diseases as required by section 212;

(8) report on Environmental and Nuclear Health Hazards as required by section 214;

(9) an annual report on the status of all health care facilities needs as required by section 301(c)(2) and 301(d);

(10) reports on safe water and sanitary waste disposal facilities as required by section 302(h)(1);

(11) an annual report on the expenditure of non-service funds for rennovation as required by sections 305(a)(2) and 305(a)(3);

(12) a report identifying the backlog of maintenance and repair required at Service and tribal facilities required by section 314(a);

(13) a report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII and XIX of the Social Security Act required by section 403(a);

(14) report on services sharing of Indian Health Service, Veteran's Affairs, and Other federal Agency Health Programs as required by section 412(c)(2);

(15) report on evaluation and renewal of urban Indian programs as required by section 505;

(16) report on the findings and conclusions derived from the demonstration project as required by section 512(a)(2);

(17) report on the evaluation of programs as required by section 513;

(18) reports on Alcohol and Substance Abuse as required by section 701(f);

~~(5) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section **814**, relating to infant and maternal mortality and fetal alcohol syndrome.;~~

~~(6) the reports required by sections 3(d), 108(n), 203(b), 209(j), 301(c), 302(g), 305(a)(3), 403, 708(e), and 817(a), and 822(f);~~

~~(7) for fiscal year 1995, the report required by sections 702(c)(3) and 713(b);~~

~~(8) for fiscal year 1997, the interim report required by section 307(h)(1); and~~

~~(9) for fiscal year 1999, the reports required by sections 307(h)(2), 512(b), 711(f), and 821(g).~~

REGULATIONS

Sec. 802. (a)(1) Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of ~~t~~Title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out the Indian Health Care Improvement Act, as amended.

(2) Proposed regulations to implement this Act shall be published in the federal Register by the Secretary no later than 270 days after the date of enactment of this Act and shall have no less than a 120 day comment period.

(3) The authority to promulgate regulations under this Act shall expire 18 months

from the date of enactment of this Act. (b) **COMMITTEE.—** A negotiated rulemaking committee established pursuant to section 565 of Title 5, United States Code, to carry out this section shall have as its members only representatives of the federal government and representatives of Indian Tribes, and tribal organizations, a majority of whom shall be nominated by and be representatives of Indian Tribes, tribal organizations, and urban Indian organizations from each service area. (c) **ADAPTATION OF PROCEDURES.—** The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes. ~~Prior to any revision of or amendment to rules or regulations promulgated pursuant to this Act, the Secretary shall consult with Indian Tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.~~ (d) The lack of promulgated regulations shall not limit the effect of this Act. (e) The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.	
PLAN OF IMPLEMENTATION **Sec. 803.** Within two hundred and forty days after enactment of this Act, a plan will be prepared by the Secretary in consultation with Indian Tribes, tribal organizations, and urban Indian organizations, and will be submitted to the Congress. The plan will explain the manner and schedule (including a schedule of appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.	
	Section 804, Leases with Indian Tribes, has been moved to Title III.
AVAILABILITY OF FUNDS **Sec. 804 ~~805~~** The funds appropriated pursuant to this Act shall remain available until expended.	
LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE **Sec. 805 ~~806~~.** Any limitation on the use of funds contained in an Act providing appropriations for the Department ~~of Health and Human Services~~ for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health Service.	

	Section 807, Nuclear Resource Development Health Hazards, has been moved to Title II.
	Section 808, Arizona as a Contract Health Service Delivery Area, has been moved to Title II.

ELIGIBILITY OF CALIFORNIA INDIANS

Sec. 806 809. (a)~~(1) In order to provide the Congress with sufficient data to determine which Indians in the State of California should be eligible for health services provided by the Service, the Secrtary shall, by no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1988, prepare and submit to the Congress a report which sets forth~~

~~(A) a determination by the Secretary of the number of Indians described in subsection (b)(2), and the number of Indians described in (b)(3), who are not members of an Indian Tribe recognized by the federal Government,~~

~~(B) the geographic location of such Indians,~~

~~(C) the Indian Tribes of which such Indians are members,~~

~~(D) an assessment of the current health status, and health care needs, of such Indians, and~~

~~(E) an assessment of the actual availability and accessibility of alternative resources for the health care of such Indians that such Indians would have to rely on if the Service did not provide for the health care of such Indians.~~

~~(2) The report required under paragraph (1) shall be prepared by the Secretary~~

~~(A) in consultation with the Secretary of the Interior, and~~

~~(B) with the assistance of the tribal health programs providing services to the Indians described in paragraph (2) or (3) of subsection (b) who are not members of any Indian Tribe recognized by the federal Government.~~

~~(b)~~ (1) Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service;

(1) Any member of a federally-recognized Indian Tribe.

(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant–

(A) ~~is living in California,~~
~~(B)~~ is a member of the Indian community served by a local program of the Service, and

(B) ~~(C)~~ is regarded as an Indian by the community in which such descendant lives.

(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California. (4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian. (b) ~~(c)~~ Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.	
	Section 810, California as a Contract Health Service Delivery Area, has been moved to Title II where the other contract health provisions are.
	Section 811, Contract Health Facilities, has been moved to Title II where the other contract health provisions are.
	Section 812, National Health Services Corps, has been moved to Title I which has the other provisions regarding health professions.
HEALTH SERVICES FOR INELIGIBLE PERSONS **Sec. 807 ~~813~~**. (a)(1) Any individual who– (A) has not attained 19 years of age, (B) is the natural or adopted child, step-child, foster-child, legal ward, or orphan of an eligible Indian, and (C) is not otherwise eligible for health services provided by the Service, shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date of a determination of competency. (2) Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all such spouses or spouses who are married to members of the Indian Tribe(s) being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian Tribe or tribal organization providing such services ~~of the eligible Indian~~. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.	

(b)(1)(A) The Secretary is authorized to provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if–

(i) the Indian Tribe (or, in the case of a multi-tribal service area, all the Indian Tribes) served by such service unit requests such provision of health services to such individuals, and

(ii) the Secretary and the Indian Tribe or Tribes have jointly determined that–

(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians, and

(II) there is no reasonable alternative health program, within or without the service area of such service unit, available to meet the health needs of such individuals.

(B) In the case of health programs operated under a contract entered into under the Indian Self-Determination and Education Assistance Act, the governing body of the Indian Tribe or tribal organization providing health services under such contract is authorized to determine whether health services should be provided under such funding agreement ~~contract~~ to individuals who are not eligible for such health services under any other subsection in this section or under any other provision of law. In making such determinations, the governing body of the Indian Tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

(2)(~~a~~A) Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880(c) of the Social Security Act, section 402(a) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under Titles XVIII and XIX of the Social Security Act, shall be credited to the account of the program providing the service and shall be used solely for the provision of health services within that program. Amounts collected under this subsection shall be available for expenditure within such program.

(B) Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

(3)(A) In the case of a service area which serves only one Indian Tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian Tribe revokes its concurrence to the provision of such health services.

(B) In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian Tribes in the service area revoke their concurrence to the provisions of such health services. (c) The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to– (1) achieve stability in a medical emergency, (2) prevent the spread of a communicable disease or otherwise deal with a public health hazard, (3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or (4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person. (d) Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination and Education Assistance Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the federal Government for purposes of section 1346(b) and chapter 171 of Title 28, United States Code (relating to federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended. (e) For purposes of this section, the term "eligible Indian" means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.	
~~**INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME**~~ ~~**Sec. 814.** By no later than January 1, 1990, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1994:~~ ~~(1) reduction of the rate of Indian infant mortality in each area office of the Service to the lower of~~ ~~(A) twelve deaths per one thousand live births, or~~ ~~(B) the rate of infant mortality applicable to the United States population as a whole;~~ ~~(2) reduction of the rate of maternal mortality in each area office of the Service to the lower of~~ ~~(A) five deaths per one hundred thousand live births, or~~	*Section 814, has been deleted because Section 3 establishes a better benchmark and the planning requirements are now required by the amended Section 701.*

~~(B) the rate of maternal mortality applicable to the United States population as a whole; and~~ ~~(3) reduction of the rate of fetal alcohol syndrome among Indians served by, or on behalf of, the Service to one per one thousand live births.~~	
	Section 815, Contract Health Services for the Trenton Service Area, has been moved to Title II where the other contract health provisions are found.
	Section 816, Indian Health Service and Department of Veteran's Affairs Health Facilities and Services Sharing, has been moved to Title IV with other financing provisions.
REALLOCATION OF BASE RESOURCES~~.~~ **Sec. 808 ~~817~~.** (a) Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects. (b) Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.	
	Section 818, Demonstration Projects for tribal Management of Health Care Services, has been moved to Title III with other facility provisions.
	Section 819, Child Sexual Abuse Treatment Programs, has been moved to Title VII where other behavioral health provisions are found.
	Section 820, tribal Leasing, has been moved to Title III with other facilities provisions.
~~**HOME- AND COMMUNITY BASED CARE DEMONSTRATION PROJECT**~~ ~~**Sec. 821.** (a) The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian Tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act, to establish demonstration projects for the delivery of home- and community based services to functionally disabled Indians.~~ ~~(b) (1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community- based services (including transportation~~	*Home and community based care has been added in Section 201 and no longer needs a separate section.*

~~services) to functionally disabled Indians.~~

~~(2) Such funds may not be used -~~

~~(A)to make cash payments to functionally disabled Indians;~~

~~(B)to provide room and board for functionally disabled Indians;~~

~~(C)for the construction or renovation of facilities or the purchase of medical equipment; or~~

~~(D)for the provision of nursing facility services.~~

~~(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian Tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of Tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians;~~

~~(d)The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.~~

~~(e)At the discretion of the Tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.~~

~~(f)The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c).~~

~~(g)The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.~~

~~(h)For the purposes of this section, the following definitions shall apply:~~

~~(1) The term "home-and community-based services" means one or more of the following:~~

~~(A)Homemaker/home health aide services.~~

~~(B)Chore services.~~ ~~(C)Personal care services.~~ ~~(D)Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.~~ ~~(E)Respite care.~~ ~~(F) Training for family members in managing a functionally disabled individual.~~ ~~(G) Adult day care.~~ ~~(H) Such other home and community based services as the Secretary may approve.~~ ~~(2) The term "functionally disabled" means an individual who is determined to require home and community based services based on an assessment that uses criteria (including, at the discretion of the Tribe or tribal organization, activities of daily living) developed by the Tribe or tribal organization.~~ ~~(i) There are authorized to be appropriated for each of the fiscal 1996 through 2000 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.~~	
	Section 822, Shared Services Demonstration Project, has been moved to Title II.
RESULTS OF DEMONSTRATION PROJECTS **Sec. 809 ~~823~~.** The Secretary shall provide for the dissemination to Indian Tribes of the findings and results of demonstration projects conducted under this Act.	
	Section 824, Priority for Indian Reservations, has been moved to Title III.
REFERENCES **Sec. 810 ~~3~~.** Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act, 25 U.S.C. § 1601, et seq.	*This section was a free-standing provision enacted originally in P.L. 100-713.*
PROVISION OF SERVICES IN MONTANA **Sec. 811 ~~712~~.** (a) The Secretary ~~of Health and Human Services~~, acting through the ~~Indian Health~~ Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in *McNabb* for *McNabb v. Bowen*, 829 F.2d 787 (9th Cr. 1987).	*This section was a free-standing provision enacted originally in P.L. 100-713.*

(b) The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.	
~~[ELIGIBILITY~~ MORATORIUM ~~AND STUDY]~~ **Sec. 812 ~~719~~.** During the period of the moratorium imposed by Public Law 100-446 on implementation of the final rule published in the federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service, relating to eligibility for the health care services of the Indian Health Service, the Indian Health Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of section 806 and 807 ~~709~~ of the Indian Health Care Improvement Act, as amended by this Act until such time as new criteria governing eligibility for services are developed in accordance with Section 802 of this Act. ~~(b) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, by contract or any other means, conduct a study to determine the impacct of the final rule described in subsection (a) and of any other proposed rules which would change the eligibility criteria for medical services provided by the Indian Health Service.~~ ~~(c) The study conducted under subsection (b) shall include~~ ~~(1) full participation and consultation with Indian and Alaskan Native tribal governments and representatives of urban Indian health care programs;~~ ~~(2) statistics for each of the service areas of the Indian Health Service on the number of Indians who are currently eligible for the services of the Indian Health Service;~~ ~~(3) statistics for each of the service areas of the Indian Health Service on the number of Indians who would be eligible for such services if the final rule described in subsection (a), or any alternative rule changing eligibility, were implemented;~~ ~~(4) consideration of the financial impact of such final rule or any other proposed rule on the contract health care budget and on the clinical services budget of the Indian Health Service;~~ ~~(5) consideration of the health status, cultural, social, and economic impact on Indian reservations and urban Indian populations of such final rule or any other rule changing the eligibility criteria;~~ ~~(6) consideration of the alternatives, if any, that would be available to those Indians who would not be eligible for such services by reason of any such final rule; and~~ ~~(7) consideration of the program changes that the Indian Health Service would be required to make if the eligibility requirements for such services that were in effect~~	*This section was a free-standing provision enacted originally in P.L. 100-713.*

~~on September 15, 1987, were modified.~~ ~~(d) The Secretary of Health and Human Services shall submit to the Congress a report on the study required under subsection (b).~~ ~~(e) Before submitting to Congress the report on the study required under subsection (b), the Secretary of Health and Human Services shall provide Indian Tribes, Alaska Native villages and urban Indian health care programs an opportunity to comment on the report and shall incorporate the comments of such Indian groups into the report.~~ ~~(f) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.~~	
TRIBAL EMPLOYMENT **Sec. 813.** For purposes of section 2(2), Act of July 5, 1935, as amended (49 Stat. 450, Chapter 372), an Indian Tribe or tribal organization carrying out a funding agreement under the Self-Determination and Education Assistance Act shall not be considered an "employer."	
PRIME VENDOR **Sec. 814.** For purposes of section 4 of Public Law 102-585 (38 U.S.C. § 812) Tribes and tribal organizations carrying out a grant, cooperative agreement of funding agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450 et. seq.) shall be deemed to be an executive agency and part of the Indian Health Service in the Department of Health and Human Services and, as such, may act as an ordering agent of the Indian Health Service and the employees of the Tribe or tribal organization may order supplies on behalf thereof on the same basis as employees of the Indian Health Service.	*This ensures that tribal health programs have full access to the VA and other federal purchasing programs.*
SEVERABILITY PROVISIONS **Sec. 815.** If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.	*This section was a free-standing provision enacted originally in P.L. 100-713 as section 801.*
ESTABLISHMENT OF NATIONAL BI-PARTISAN COMMISSION ON INDIAN HEALTH CARE ENTITLEMENT **Sec. 816.** There is hereby established the National Bi-Partisan Indian Health Care Entitlement Commission (the "Commission"). **(a) DUTIES OF COMMISSION. –** (1)Review and analyze the recommendations of the report of the Study Committee, as established below, to the Commission;	*This section is a "work in progress". The section has only recently been drafted in its present form and many tribal leaders, including members of the Steering Committee, have not yet had a full opportunity to comment on it. The Steering Committee is continuing to receive comments concerning the section and will, if necessary, provide a subsequent amended draft of this section to those who have originally*

(2)Make recommendations to the Congress for providing health services for Indian persons as an entitlement, giving due regard to the effects of such a program on existing health care delivery systems for Indian persons and the effect of such a program on the sovereign status of Indian Tribes;

(3) Establish a Study Committee composed of those members of the Commission appointed by the Director of the Indian Health Service and at least four members of Congress from among the members of the Commission which shall –

(A) To the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian Tribes, tribal organizations and urban Indian organizations, and which may include authorizing and funding feasibility studies of various models for providing and funding health services for all Indian beneficiaries including those who live outside of a reservation, temporarily or permanently.

(B) Make recommendations to the Commission for legislation that will provide for the delivery of health services for Indians as an entitlement, which will address, among other things, issues of eligibility; benefits to be provided, including recommendations regarding from whom such health services are to be provided and the cost, including mechanisms for funding of the health services to be provided;

(C) Determine the effect of the enactment of such recommendations on the existing system of delivery of health services for Indians;

(D) Determine the effect of an health services entitlement program for Indian persons on the sovereign status of Indian Tribes;

(E) Not later than 12 months after the appointment of all members of the Commission, shall make a written report of its findings and recommendations to the full Commission, which report shall include a statement of the minority and majority position of the Committee and which shall be disseminated, at a minimum, to every federally recognized Indian Tribe, tribal organization and urban Indian organization for comment to the Commission; and.

(F) Report regularly to the full Commission regarding the findings and recommendations developed by the Study Committee in the course of carrying out its duties under this section.

(4) By not later than 18 months following the date of appointment of all members of the Commission, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Indians based on delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Indians and on the sovereign status of Indian Tribes.

those who have originally received the draft bill. It is also understood that during the consideration of this section, Tribes and Indian persons will have further opportunities to comment.

The duties of the Study Committee, as separate from the Commission, are to determine the scope of a system of health care based on the provision of health services for Indians as an entitlement. The Study Committee must seek the views of Indians about how any entitlement system would be carried out, and the Commission, or the Study Committee, must hold at least six regional hearings in Indian country. The report of the Study Committee must be distributed to all Indian Tribes, Indian organizations and urban Indian organizations. The Commission would make the final recommendations to Congress.

The success of the efforts of the Commission and the Study Committee will depend in large part on the response and participation of the Indian Tribes, Indian organizations, urban Indian organizations and those Indians who are recipients of health services. Tribal leaders remain concerned that the Commission proposes a system of delivery of health services as an entitlement for Indians that provides a meaningful and substantial improvement from present health service delivery efforts.

The boilerplate language and some format of this section is taken in part from legislation proposed for the Medicare Advisory Commission and the National Bi-Partisan Commission on the Future of Medicare.

(b) MEMBERSHIP. –

(1) Number and appointment. – The Commission shall be composed of 25 members, selected by as follows:

(A) Ten members of Congress, including three from the United States House of Representatives and two from the United States Senate, appointed by their respective majority leaders, and three from the United States House of Representatives and two from the United States Senate, appointed by their respective minority leaders, and who shall be members of the standing committees of Congress that consider legislation affecting health care to Indians;

(B) Twelve persons chosen by the Congressional members of the Commission, one from each Indian health care service area as currently designated by the Director of the Indian Health Service, to be chosen from among three nominees from each area put forward by the Tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and with due regard being given to a reasonable representation on the commission of members who are familiar with various health care delivery modes and who represent Tribes of various size populations; and

(C) Three persons appointed by the Director of the Indian Health Service who are knowledgeable about the provision of health care to Indians, at least one of whom shall be appointed from among three nominees put forward by those programs whose funding is provided in whole or in part by the Indian Health Service primarily or exclusively for the benefit of urban Indians.

(D) All those persons chosen by the Congressional members of the Commission and by the President shall be members of federally recognized Indian Tribes.

(E) The Chairman and Vice-Chairman of the Commission shall be selected by the Congressional members of the Commission.

(c) TERMS – WHEN APPOINTMENT MADE. –

(1) The terms of members of the Commission shall be for the life of the Commission.

(2) Congressional members of the Commission shall be appointed not later than 90 days after the approval of this Act, and the remaining members of the Commission shall be appointed not later than 60 days following the appointment of the Congressional members.

(3) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION AND EXPENSES. –

(1) Each Congressional member of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(2) Remaining members of the Commission, while serving on the business of the Commission (including travel time) shall be entitled to receive compensation at the per deim equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. For purpose of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

(e) MEETINGS AND QUORUM. –

(1) The Commission shall meet at the call of the Chairman.

(2) A quorum of the Commission shall consist of not less than 15 members, provided that no less than 6 of the members of Congress who are Commission members are present and no less than 9 of the members who are Indians are present.

(f) DIRECTOR AND STAFF. –

(1) Executive Director. –

(A) The Commission shall appoint an executive director of the Commission.

(B) The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) Staff. – With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

(3) Applicability of Civil Service laws. – The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) Experts and Consultants. – With the approval of the Commission, the executive director may procure temporary and intermitten services under section 3109(b) of title 5, United States Code.

(5) Physical Facilities. – The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(g) POWERS. –

(1) Hearings and Other Activities. – For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, provided that at least six regional hearings are held in different areas of the United States in which large numbers of Indians are present. Such hearings are to be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this subsection, at least five members of the Commission, including at least one member of Congress, must be present. Hearings held by the Study Committee established in this section may count towards the number of regional hearings required by this subsection..

(2) Studies by GAO. – Upon request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) Cost estimates by Congressional Budget Office and Office of the Chief Actuary of HCFA. –

(A) The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) Detail of federal Employees. – Upon the request of the Commission, the head of any federal Agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the federal employee.

(5) Technical Assistance. – Upon the request of the Commission, the head of a federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) Use of Mails. – The Commission may use the United States mails in

the same manner and under the same conditions as federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code. **(7) Obtaining Information. –** The Commission may secure directly from the any federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission. **(8) Administrative Support Services. –** Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request. **(9) Printing. –** For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress. **(h) Authorization for Appropriation. –** There are authorized to be appropriated $4,000,000 to carry out the provisions of this subsection, which sum shall not be deducted from or affect any other appropriation for health care for Indian persons.	
APPROPRIATIONS; AVAILABILITY **Sec. 817 .** Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.	*This section was a free-standing provision enacted originally in P.L. 100-713.*
AUTHORIZATION OF APPROPRIATIONS **Sec. 818 ~~825~~.** ~~Except as provided in section 821, t~~ There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2012 ~~2000~~ to carry out this Title.	

FREESTANDING PROVISIONS – P.L. 102-573

The Indian Health Amendments of 1992, P.L. 102-573 had a number of free-standing provisions. Some of these were noted in the foregoing codification of P.L. 94-437. Others that may still have relevance are presented below for your convenience. Citations refer to P.L. 102-573 ***not*** *P.L. 94-437.*

AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT **Sec. 2.** Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Health Care Improvement Act (25 U.S.C. § 1601 et seq.)	