

## INDIAN HEALTH CARE AMENDMENTS OF 1988

OCTOBER 12, 1988.—Ordered to be printed

Mr. UDALL, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany H.R. 5261]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5261) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

#### SHORT TITLE

**SECTION 1.** *This Act may be cited as the "Indian Health Care Amendments of 1988".*

#### TABLE OF CONTENTS.

#### **SEC. 2.** *Table of contents.*

- Sec. 1. Short title.*
- Sec. 2. Table of contents.*
- Sec. 3. References.*
- Sec. 4. Appropriation; availability.*

#### **TITLE I—INDIAN HEALTH MANPOWER**

- Sec. 101. Health professions recruitment program for Indians.*
- Sec. 102. Health professions preparatory scholarship program.*
- Sec. 103. Indian Health Service extern programs.*
- Sec. 104. Indian health professions scholarship program.*
- Sec. 105. Continuing education allowances.*
- Sec. 106. Native Hawaiian health professions scholarship program.*
- Sec. 107. Community health representatives.*

- Sec. 108. Indian health service clinical staffing.*
- Sec. 109. Other recruitment and retention provisions.*
- Sec. 110. Report on recruitment and retention.*

#### **TITLE II—HEALTH SERVICES**

- Sec. 201. Improvement of Indian health status.*
- Sec. 202. Catastrophic health program.*
- Sec. 203. Health promotion and disease prevention.*
- Sec. 204. Reimbursement of certain expenses; research.*

#### **TITLE III—HEALTH FACILITIES**

- Sec. 301. Consultation; closure of facilities; reports.*
- Sec. 302. Safe water and sanitary waste disposal facilities.*
- Sec. 303. Use of non-Service funds for renovation.*
- Sec. 304. Bethel, Alaska, hospital.*

#### **TITLE IV—ACCESS TO HEALTH SERVICES**

- Sec. 401. Medicare provisions.*
- Sec. 402. Demonstration program.*

#### **TITLE V—URBAN INDIAN HEALTH SERVICES**

- Sec. 501. Revision of program.*
- Sec. 502. Urban Indian organization.*

#### **TITLE VI—ORGANIZATIONAL IMPROVEMENTS**

- Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.*

#### **TITLE VII—MISCELLANEOUS PROVISIONS**

- Sec. 701. Leasing and other contracts.*
- Sec. 702. Arizona as a contract health service delivery area.*
- Sec. 703. Eligibility of California Indians.*
- Sec. 704. California as a contract health service delivery area.*
- Sec. 705. Contract health facilities.*
- Sec. 706. National Health Service Corps.*
- Sec. 707. Health services for ineligible persons.*
- Sec. 708. Infant and maternal mortality; fetal alcohol syndrome.*
- Sec. 709. Contract health services for the Trenton Service Area.*
- Sec. 710. Indian health service and Veterans' Administration health facilities and services sharing.*
- Sec. 711. Reallocation of base resources.*
- Sec. 712. Provision of services in Montana.*
- Sec. 713. Demonstration projects for tribal management of health care services.*
- Sec. 714. Health care for rural areas.*
- Sec. 715. Child sexual abuse treatment program.*
- Sec. 716. Pueblo substance abuse treatment project for San Juan Pueblo, New Mexico.*
- Sec. 717. Study with respect to nuclear resource development health hazards.*
- Sec. 718. Limitation on use of funds appropriated to the Indian Health Service.*
- Sec. 719. Eligibility for services.*

#### **TITLE VIII—SEVERABILITY PROVISION**

- Sec. 801. Severability.*

#### **REFERENCES**

**SEC. 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.).*

**APPROPRIATION; AVAILABILITY**

**SEC. 4.** 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.

**TITLE I—INDIAN HEALTH MANPOWER**

**HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS**

**SEC. 101.** Subsection (c) of section 102 (25 U.S.C. 1612 (c)) is amended to read as follows:

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

- "(1) \$600,000 for fiscal year 1989,
- "(2) \$650,000 for fiscal year 1990,
- "(3) \$700,000 for fiscal year 1991, and
- "(4) \$750,000 for fiscal year 1992."

**HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM**

**SEC. 102.** (a) Section 103 (25 U.S.C. 1613) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Secretary shall not deny scholarship assistance to an eligible applicant under this section 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) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

- "(1) \$3,000,000 for fiscal year 1989,
- "(2) \$3,700,000 for fiscal year 1990,
- "(3) \$4,400,000 for fiscal year 1991, and
- "(4) \$5,100,000 for fiscal year 1992."

(b) Subsection (c) of section 103 is amended by striking out "expenses" and inserting in lieu thereof "expenses of a grantee while attending school full time".

**INDIAN HEALTH SERVICE EXTERN PROGRAMS**

**SEC. 103.** Subsection (d) of section 105 (25 U.S.C. 1614) is amended to read as follows:

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

- "(1) \$300,000 for fiscal year 1989,
- "(2) \$350,000 for fiscal year 1990,
- "(3) \$400,000 for fiscal year 1991, and
- "(4) \$450,000 for fiscal year 1992."

**INDIAN HEALTH PROFESSIONS SCHOLARSHIP PROGRAM**

**SEC. 104.** (a) Section 104 is amended to read as follows:

**"INDIAN HEALTH PROFESSIONS SCHOLARSHIPS**

"**SEC. 104.** (a) In order to provide health professionals to Indian communities, the Secretary, acting through the Service and in ac-

cordance with this section, shall make scholarship grants to Indians who are enrolled full time in appropriately accredited schools of medicine, osteopathy, podiatry, psychology, dentistry, environmental health and engineering, nursing, optometry, public health, allied health professions, and social work. 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. 254l), 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 of Indians for additional service in such health professions.

"(2) An individual shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full time in a health profession school referred to in subsection (a).

"(3) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by a recipient of an Indian Health Scholarship by service—

"(A) in the Indian Health Service;

"(B) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(C) in a program assisted under title V of this Act; or

"(D) in the private practice of the applicable profession 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.

"(c) For purposes of this section, the term 'Indian' has the same meaning given that term by subsection (c) of section 4 of this Act, including all individuals described in clauses (1) through (4) of that subsection.

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) \$5,100,000 for fiscal year 1989,

"(2) \$6,000,000 for fiscal year 1990,

"(3) \$7,100,000 for fiscal year 1991, and

"(4) \$8,234,000 for fiscal year 1992."

(b)(1) Section 338I of the Public Health Service Act (42 U.S.C. 254r) is repealed.

(2) Scholarships that have been provided under section 338I of the Public Health Service Act (42 U.S.C. 254r) on or before the date of enactment of this Act—

(A) shall continue to be provided under the provisions of such section that were in effect on the day before the date of enactment of this Act,

(B) shall be subject to the same terms and conditions to which such scholarships were subject on the day before the date of enactment of this Act, and

(C) shall be funded from funds appropriated to carry out section 104 of the Indian Health Care Improvement Act, as amended by this Act.

# **CONTINUING EDUCATION ALLOWANCES**

**SEC. 105.** Subsection (b) of section 106 (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) \$500,000 for fiscal year 1989,

"(2) \$526,300 for fiscal year 1990,

"(3) \$553,800 for fiscal year 1991, and

"(4) \$582,500 for fiscal year 1992."

## **NATIVE HAWAIIAN HEALTH PROFESSIONS SCHOLARSHIP PROGRAM**

**SEC. 106.** Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254b, et seq.) is amended by adding at the end thereof the following new section:

**"SEC. 338J. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.**

"(a) Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide scholarship assistance, pursuant to a contract with the Kamehameha Schools/Bishop Estate, to students who—

"(1) meet the requirements of section 338A(b), and

"(2) are Native Hawaiians.

"(b)(1) The scholarship assistance provided under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A.

"(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

"(c) For purposes of this section, the term 'Native Hawaiian' means any individual who is—

"(1) a citizen of the United States,

"(2) a resident of the State of Hawaii, and

"(3) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(A) genealogical records,

"(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

"(C) birth records of the State of Hawaii.

"(d) There are authorized to be appropriated \$1,800,000 for each of the fiscal years 1990, 1991, and 1992 for the purpose of funding the scholarship assistance provided under subsection (a)."

## **COMMUNITY HEALTH REPRESENTATIVES**

**SEC. 107.** Title I is amended by adding at the end thereof the following new section:

**"COMMUNITY HEALTH REPRESENTATIVE PROGRAM**

**"SEC. 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—

"(1) provides for the training of Indians as health paraprofessionals, and

"(2) uses such 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 to 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 a curriculum that—

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

"(B) provides instruction and practical experience in health promotion and disease prevention activities,

"(3) develop 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 such continuing education,

"(4) develop and maintain a system that provides close supervision of Community Health Representatives,

"(5) develop a system under which the work of 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 CLINICAL STAFFING

SEC. 108. Title I, as amended by section 107 of this Act, is further amended by adding at the end thereof the following new sections:

#### "INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM

"SEC. 108. (a)(1) 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 physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other 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 or Indian organization pursuant to a contract under—

"(I) the Indian Self-Determination 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) as a full-time student in the final year of a course of study or program in an accredited institution, as determined by the Secretary, within any State; or

"(ii) in an approved graduate training program in medicine, osteopathy, dentistry, or other health profession; or

"(B) have—

"(i) a degree in medicine, osteopathy, dentistry, or other health profession;

"(ii) completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and

"(iii) a license to practice medicine, osteopathy, dentistry, or other health profession in a State;

"(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 a service obligation;

"(3) submit an application to participate in the Loan Repayment Program; and

"(4) sign and submit to the Secretary, at the time of submission of such application, a written contract (described in subsection (f)) to accept repayment of educational loans and to serve (in accordance with this section) for the applicable period of obligated service in an Indian health program.

"(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 the 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) The Secretary, acting through the Service and in accordance with subsection (k), shall annually—*

*"(A) identify the positions in each Indian Health 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 Indian tribes or tribal or Indian organizations.*

*"(e)(1) An individual becomes a participant in the Loan Repayment Program only on the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).*

*"(2) The Secretary shall provide written notice to an individual promptly on—*

*"(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program; 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 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 educational 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 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 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) Except as provided in subparagraph (B) and paragraph (3), for each year of obligated service for which an individual contracts to serve under subsection (f), the Secretary may pay up to \$25,000 on behalf of the individual for loans described in paragraph (1).

"(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) In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.

"(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 counted 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 shall ensure that the staffing needs of Indian health programs administered by any Indian tribe or tribal or Indian organization receive consideration on an equal basis with programs that are administered directly by the Service.

"(1)(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 to, 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)(1) By not later than the first of March of each year, the Secretary shall, beginning with fiscal year 1990, submit to the Congress an annual report for the preceding fiscal year setting out—*

*"(A) the number of such applications filed with respect to each type of health profession;*

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

*"(C) the number of contracts described in subsection (f) that are entered into with respect to each health profession; and*

*"(D) the amount of loan payments made in total and by health profession.*

*"(2) Not later than the first of July of each year, beginning in 1989, the Secretary shall submit to Congress a report on—*

*"(A) 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*

*"(B) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.*

*"(c) There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out the provisions of this section.*

#### ***"TRAVEL EXPENSES FOR RECRUITMENT***

*"SEC. 109. (a) The Secretary may reimburse health professionals seeking positions in the Service, including individuals considering entering into a contract under section 108, 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) There are authorized to be appropriated \$100,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.*

#### ***"TRIBAL RECRUITMENT AND RETENTION PROGRAM***

*"SEC. 110. (a) The Secretary, acting through the Service, shall fund, on a competitive basis, projects to enable Indian tribes and tribal and Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 108(a)(2)).*

*"(b)(1) Any Indian tribe or tribal or 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.*

*"(c) There are authorized to be appropriated \$1,000,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.*

#### ***"ADVANCED TRAINING AND RESEARCH***

*"SEC. 111. (a) The Secretary, acting through the Service, shall establish a program to enable health professionals who have worked in an Indian health program (as defined in section 108(a)(2)) for a substantial period of time to pursue advanced training or research in 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. The Secretary shall develop standards for appropriate recoupment for such remaining service.*

*"(c) Health professionals from Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity to participate in the program under subsection (a).*

*"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.*

#### *"NURSING PROGRAM*

*"SEC. 112. (a) The Secretary, acting through the Service, shall provide grants to—*

*"(1) public or private schools of nursing,*

*"(2) tribally controlled community colleges, and*

*"(3) nurse midwife programs, and nurse practitioner programs, that are provided by any public or private institution, 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 nurse practitioners,*

*"(2) provide scholarships to 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 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 nurse practitioners, or*

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

*"(c) Each application for 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 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 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 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.*

*"(f)(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$5,000,000 for the purpose of carrying out the provisions of this section.*

*"(2) Of the amounts appropriated under the authority of paragraph (1) for each fiscal year, the Secretary shall use at least \$1,000,000 to provide grants under subsection (a) for the training of nurse midwives."*

#### **OTHER RECRUITMENT AND RETENTION PROVISIONS**

**SEC. 109.** *Title I, as amended by section 108 of this Act, is further amended by adding at the end thereof the following new sections:*

##### **"TRIBAL CULTURE AND HISTORY**

*"SEC. 113. (a) The Secretary, acting through the Service, shall establish a program under which appropriate employees of the Service who serve particular Indian tribes shall receive educational instruction in the history and culture of such tribes and in the history of the Service.*

*"(b) To the extent feasible, the program established under subsection (a) shall—*

*"(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*

*"(2) be developed in consultation with the affected tribal government, and*

*"(3) include instruction in Native American studies.*

*"(c) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$1,000,000 to carry out the provisions of this section.*

##### **"INMED PROGRAM**

*"SEC. 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, unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section.

"(c)(1) The Secretary shall develop regulations 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 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.

"(e) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$1,000,000 to carry out the provisions of this section.

#### "HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES

"SEC. 115. (a)(1) The Secretary, acting through the Service, shall award grants to community colleges for the purpose of assisting the community college 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 or in a tribal clinic.

"(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 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 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 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 service unit facilities of the Service or 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).*

*"(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 such term by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.*

*"(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)).*

*"(f) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$1,500,000 to carry out the provisions of this section.*

#### **"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 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 of title 5, United States Code, for health professionals employed by, or assigned to, the Service.

"(d) By no later than the date that is 6 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit a report to the Congress on the limitation imposed on amounts of premium pay for overtime to any individual employed by, or assigned to, the Service. The report shall include an explanation of existing overtime pay policy, an estimate of the budget impact of removing limitations on overtime pay, a summary of problems associated with overtime pay limitations, and recommendations for changes to the overtime pay policy.

"(e) There are authorized to be appropriated \$600,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the provisions of this section.

#### "RETENTION BONUS

"SEC. 117. (a) The Secretary may pay a retention bonus to any physician or nurse employed by, or assigned to, and serving in, the Service 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 position 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,

"(3) has—

"(A) completed 3 years of employment with the Service, 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 for continued employment for a period of not less than 1 year.

"(b) The Secretary may establish rates for the retention bonus which shall provide 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.

"(d) Any 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 108(1)(2)(B).

"(e) There are authorized to be appropriated \$3,200,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the provisions of this section."

#### REPORT ON RECRUITMENT AND RETENTION

SEC. 110. (a) The Secretary of Health and Human Services shall establish an advisory panel composed of—

- (1) 10 physicians or other health professionals who are employees of, or assigned to, the Indian Health Service,
- (2) 3 representatives of tribal health boards, and
- (3) 1 representative of an urban health care organization.

(b) The advisory panel established under subsection (a) shall conduct an investigation of—

- (1) the administrative policies and regulatory procedures which impede the recruitment or retention of physicians and other health professionals by the Indian Health Service, and
- (2) the regulatory changes necessary to establish pay grade for health professionals employed by, or assigned to, the Service that correspond to the pay grades established for positions provided under sections 4103 and 4104 of title 38, United States Code, and the costs associated with establishing such pay grades.

(c) By no later than the date that is 18 months after the date of enactment of this Act, the advisory panel established under subsection (a) shall submit to the Congress a report on the investigation conducted under subsection (b), together with any recommendations for administrative or legislative changes in existing law, practices, or procedures.

## TITLE II—HEALTH SERVICES

### IMPROVEMENT OF INDIAN HEALTH STATUS

SEC. 201. (a) Section 201 (25 U.S.C. 1621) is amended to read as follows:

#### "IMPROVEMENT OF INDIAN HEALTH STATUS

"SEC. 201. (a) The Secretary is authorized to expend funds which are appropriated under the authority of subsection (h), through the Service, for the purposes of—

- "(1) raising the health status of Indians to zero deficiency,
- "(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) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health resources deficiency:*

*"(A) clinical care (direct and indirect) including clinical eye and vision care;*

*"(B) preventive health;*

*"(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 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;*

*"(G) accident prevention programs;*

*"(H) home health care;*

*"(I) community health representatives; and*

*"(J) maintenance and repair.*

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

*"(2) Funds which are appropriated under the authority of subsection (h) may be allocated to, or used for the benefit of, any Indian tribe which has a health resources deficiency level at level I or II only if a sufficient amount of funds have been appropriated under the authority of subsection (h) to raise all Indian tribes to health resources deficiency level II.*

*"(3)(A) Funds appropriated under the authority of subsection (h) may be allocated on a service unit basis but such allocation shall be made in a manner which ensures that the requirement of paragraph (2) is met. The funds allocated to each service unit under this subparagraph shall be used by the service unit (in accordance with paragraph (2)) to raise the deficiency level of each tribe served by such service unit.*

*"(B) The apportionment of funds allocated to a service unit under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with the affected Indian tribes.*

*"(c) For purposes of this section—*

*"(1) The health resources deficiency levels of an Indian tribe are as follows:*

*"(A) level I—0 to 20 percent health resources deficiency;*

*"(B) level II—21 to 40 percent health resources deficiency;*

*"(C) level III—41 to 60 percent health resources deficiency;*

*"(D) level IV—61 to 80 percent health resources deficiency; and*

*"(E) level V—81 to 100 percent health resources deficiency.*

*"(2) The term 'health resources deficiency' means a percentage determined by dividing—*

*"(A) the excess, if any, of—*

*"(i) the value of the health resources that the Indian tribe needs, over*

*"(ii) the value of the health resources available to the Indian tribe, by*

*"(B) the value of the health resources that the Indian tribe needs.*

*"(3) The health resources available to an Indian tribe include health resources provided by the Service as well as health resources used by the Indian tribe, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.*

*"(4) Under regulations, the Secretary shall establish procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of such tribe.*

*"(d)(1) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination Act shall be eligible for funds appropriated under the authority of subsection (h) 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 60 days after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit to the Congress the current health services priority system report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—*

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

*"(2) the level of health resources deficiency for each Indian tribe served by the Service;*

*"(3) the amount of funds necessary to raise all Indian tribes served by the Service below health resources deficiency level II to health resources deficiency level II;*

*"(4) the amount of funds necessary to raise all tribes served by the Service below health resources deficiency level I to health resources deficiency level I;*

*"(5) the amount of funds necessary to raise all tribes served by the Service to zero health resources deficiency; and*

*"(6) 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; and*

*"(C) the number of Indians using the Service resources made available to each service unit or Indian tribe.*

*"(f)(1) The President shall include with the budget submitted to the Congress under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the amount of funds requested to carry out the provisions of this section for such fiscal year.*

*"(2) 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 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 among Indian tribes.*

*"(h) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—*

*"(1) \$19,000,000 for fiscal year 1990,*

*"(2) \$19,000,000 for fiscal year 1991, and*

*"(3) \$20,000,000 for fiscal year 1992.*

*Any funds appropriated under the authority of this subsection shall be designated as the 'Indian Health Care Improvement Fund'."*

*(b) Section 4 (25 U.S.C. 1603) is amended by striking out subsections (i), (j), and (k), and by inserting in lieu thereof the following new subsections:*

*"(i) 'Area office' means 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.*

*"(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 Act,*

*through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area."*

#### CATASTROPHIC HEALTH PROGRAM

*SEC. 202. Title II is amended by adding at the end thereof the following new section:*

#### "CATASTROPHIC HEALTH EMERGENCY FUND

*"SEC. 202. (a)(1) There is hereby established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the 'Fund') consisting of—*

*"(A) the amounts deposited under subsection (d), and*

*"(B) the amounts appropriated under subsection (e).*

*"(2) 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) The Fund shall not be allocated, apportioned, or delegated on a service unit, area office, or any other basis.

"(4) No part of the Fund or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination Act.

"(b) The Secretary shall, through the promulgation of regulations consistent with the provisions of this section—

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the Fund;

"(2) provide that a service unit shall not be eligible for reimbursement for the cost of treatment from 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 not less than \$10,000 or not more than \$20,000;

"(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

"(A) service units 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 the Fund in cases in which the exigencies of the medical 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 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) Funds appropriated under subsection (e) shall not be used to offset or limit appropriations made to the Service under 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 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 the Fund.

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) \$12,000,000 for fiscal year 1989, and

"(2) for each of the fiscal years 1990, 1991, and 1992, such sums as may be necessary to restore the Fund to a level of \$12,000,000 for such fiscal year.

Funds appropriated under the authority of this subsection shall remain available until expended."

# HEALTH PROMOTION AND DISEASE PREVENTION

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 medical care of Indians.

(b) Section 4 (25 U.S.C. 1603), as amended by section 201(b) of this Act, is further amended by adding at the end thereof the following new subsections:

“(k) ‘Health promotion’ includes—

- “(1) cessation of tobacco 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.”

(c) Title II (25 U.S.C. 1621, et seq.), as amended by section 202 of this Act, is further amended by adding at the end thereof the following new sections:

## “HEALTH PROMOTION AND DISEASE PREVENTION SERVICES

“SEC. 203. (a) The Secretary, acting through the Service, shall provide health promotion and disease prevention services to Indians.

“(b) The Secretary shall submit to the President for inclusion in each statement which is required to be submitted to the Congress under section 201(f) 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.

“(c)(1) The Secretary shall establish at least 1 demonstration project (but no more than 4 demonstration projects) to determine the most effective and cost-efficient means of—

“(A) providing health promotion and disease prevention services,

“(B) encouraging Indians to adopt good health habits,

*"(C) reducing health risks to Indians, particularly the risks of heart disease, cancer, stroke, diabetes, anxiety, depression, and lifestyle-related accidents,*

*"(D) reducing medical expenses of Indians through health promotion and disease prevention activities,*

*"(E) establishing a program—*

*"(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribe, and*

*"(ii) under which such Indians are available on a contract basis to provide such services to other tribes, and*

*"(F) providing training and continuing education to employees of the Service, and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.*

*"(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).*

*"(3)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one—*

*"(i) health profession school,*

*"(ii) allied health profession or nurse training institution, or*

*"(iii) public or private entity that provides health care.*

*"(B) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).*

*"(C) For purposes of this paragraph, the term 'school of medicine' and 'school of osteopathy' have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).*

*"(4) The Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project.*

*"(5) The demonstration project described in paragraph (1) shall be established by no later than the date that is 12 months after the date of enactment of the Indian Health Care Amendments of 1988 and shall terminate on the date that is 30 months after the date of enactment of such amendments.*

*"(6) There are authorized to be appropriated \$500,000 for the purpose of carrying out the provisions of this subsection, such sum to remain available without fiscal-year limitation.*

#### **"DIABETES PREVENTION, TREATMENT, AND CONTROL**

**"SEC. 204. (a)(1) The Secretary, in consultation with the tribes, shall determine—**

**"(A) by tribe and by service unit of the Service, the incidence of, and the types of complications resulting from, diabetes among Indians; and**

**"(B) based on subparagraph (A), the measures (including patient education) each Service unit should take to reduce the in-**



cidence of, and prevent, treat, and control the complications resulting from, diabetes among tribes within that service unit.

"(2) Within 18 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made and measures taken under paragraph (1) and making recommendations for additional funding to prevent, treat, and control diabetes among Indians.

"(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 Act.

"(c)(1) The Secretary shall continue to maintain during fiscal years 1988 through 1991 each of the following model diabetes projects which are in existence on the date of enactment of the Indian Health Care Amendments of 1988:

"(A) Claremore Indian Hospital in Oklahoma;

"(B) Fort Totten Health Center in North Dakota;

"(C) Sacaton Indian Hospital in Arizona;

"(D) Winnebago Indian Hospital in Nebraska;

"(E) Albuquerque Indian Hospital in New Mexico;

"(F) Perry, Princeton, and Old Town Health Centers in Maine; and

"(G) Bellingham Health Center in Washington.

"(2) The Secretary shall establish in fiscal year 1989, and maintain during fiscal years 1989 through 1991, a model diabetes project in each of the following locations:

"(A) Fort Berthold Reservation;

"(B) the Navajo Reservation;

"(C) the Papago Reservation;

"(D) the Zuni Reservation; and

"(E) the States of Alaska, California, Minnesota, Montana, Oregon, and Utah.

"(d) The Secretary shall—

"(1) employ in each area office of the Service 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.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Funds appropriated under subsection (c) in any fiscal year shall be in addition to base resources appropriated to the Service for that year.

*"NATIVE HAWAIIAN HEALTH PROMOTION AND DISEASE PREVENTION*

*"SEC. 205. (a)(1) The Secretary shall, acting through the Public Health Service, establish in the State of Hawaii, as a demonstration project, a Native Hawaiian Program for Health Promotion and Disease Prevention for the purpose of exploring ways to meet the unique health care needs of Native Hawaiians.*

*"(2) The demonstration program that is to be established under paragraph (1) shall—*

*"(A) provide necessary preventive-oriented health services, including health education and mental health care,*

*"(B) develop innovative training and research projects,*

*"(C) establish cooperative relationships with the leadership of the Native Hawaiian community,*

*"(D) ensure that a continuous effort is made to establish programs which can be of direct benefit to other Native American people, and*

*"(E) assure a comprehensive effort to reduce the incidence of diabetes among Native Hawaiians.*

*"(3) The Secretary is authorized to enter into contracts with Native Hawaiian organizations for the purpose of assisting the Secretary in meeting the objectives of the demonstration program that is to be established under paragraph (1).*

*"(b)(1) In fulfillment of the objective set forth in subsection (a)(2)(E), the Secretary shall enter into a contract with a Native Hawaiian organization to conduct a study to determine—*

*"(A) the incidence of diabetes among Native Hawaiians;*

*"(B) activities which should be undertaken—*

*"(i) to reduce the incidence of diabetes among Native Hawaiians,*

*"(ii) to provide Native Hawaiians with guidance in the prevention, treatment, and control of diabetes,*

*"(iii) to provide early diagnosis of diabetes among Native Hawaiians, and*

*"(iv) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as diabetic.*

*"(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of preparing an inventory of all health care programs (public and private) within the State of Hawaii that are available for the treatment, prevention, or control of diabetes among Native Hawaiians.*

*"(3) By no later than the date that is two years after the date of enactment of this section, the Native Hawaiian organization with whom the Secretary has entered into a contract, shall prepare and transmit to the Secretary a report describing the determinations made under paragraph (1), containing the inventory prepared under paragraph (2), and describing the research activities conducted under this subsection. The Secretary shall submit the report to the Congress and the President.*

*"(c)(1) By no later than the date that is three years after the date of enactment of this section, the Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of implementing a program designed—*

*"(A) to establish a diabetes control program;*

*"(B) to screen those Native Hawaiian individuals that have been identified as having a high risk of becoming diabetic;*

*"(C) to effectively treat—*

*"(i) individuals diagnosed as diabetics in order to reduce further complications from diabetes,*

*"(ii) individuals who have a high risk of becoming diabetic in order to reduce the incidence of diabetes, and*

*"(iii) short-term and long-term complications of diabetes;*

*"(D) to conduct for Federal, State, and other Native Hawaiian health care providers (including Native Hawaiian community health outreach workers), training programs concerning current methods of prevention, diagnosis, and treatment of diabetes and related complications among Native Hawaiians;*

*"(E) to determine the appropriate delivery to Native Hawaiians of health care services relating to diabetes;*

*"(F) to develop and present health education information to Native Hawaiian communities and schools concerning the prevention, treatment, and control of diabetes; and*

*"(G) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as being diabetic.*

*"(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of—*

*"(A) promoting coordination and cooperation between all health care providers in the delivery of diabetes related services to Native Hawaiians; and*

*"(B) encouraging and funding joint projects between Federal programs, State health care facilities, community health centers, and Native Hawaiian communities for the prevention and treatment of diabetes.*

*"(3)(A) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of establishing a model diabetes program to serve Native Hawaiians in the State of Hawaii.*

*"(B) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of developing and implementing an outreach program to ensure that the achievements and benefits derived from the activities of the model diabetes program established under subparagraph (A) are applied in Native Hawaiian communities to assure the diagnosis, prevention, and treatment of diabetes among Native Hawaiians.*

*"(4) The Secretary shall submit to the Congress an annual report outlining the activities, achievements, needs, and goals of the Native Hawaiian diabetes care program established under this paragraph.*

*"(d) The Secretary shall enter into a contract with a Native Hawaiian organization, for the purpose of developing a standardized system to collect, analyze, and report data regarding diabetes and related complications among Native Hawaiians. Such system shall be designed to facilitate dissemination of the best available information on diabetes to Native Hawaiian communities and health care professionals.*

*"(e) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of—*

*"(1) conducting research concerning the causes, diagnosis, treatment, and prevention of diabetes and related complications among Native Hawaiians, and*

*"(2) coordinating such research with all other relevant agencies and units of the government of the State of Hawaii and the Department of Health and Human Services which conduct research relating to diabetes and related complications.*

*"(f) The Secretary shall submit to the Congress an annual report on the status and accomplishments of the progress established under this section during each of the fiscal years 1990, 1991, and 1992.*

*"(g)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this subsection such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.*

*"(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this subsection.*

*"(3) The Secretary shall conduct an evaluation of each Native Hawaiian organization which has entered into a contract under this subsection for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.*

*"(4) If, as a result of the evaluations conducted under paragraph (3), the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this subsection, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract 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 with such organization and is authorized to enter into a contract under this subsection with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the Native Hawaiian organization whose contract is not renewed by reason of this subparagraph.*

*"(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under this subsection, the Secretary shall—*

*"(A) review the records of the Native Hawaiian organization, and*

*"(B) shall consider the results of the onsite evaluations conducted under paragraph (3).*

*"(6) All contracts entered into by the Secretary under this subsection shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seqq.).*

*"(7) Payments made under any contract entered into under this subsection may be made in advance, by means of reimbursement, or*

in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this subsection.

"(8) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this subsection as necessary to carry out the purposes of this subsection.

"(9)(A) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this subsection, such organization shall submit to the Secretary a quarterly report on—

"(i) activities conducted by the organization under the contract,

"(ii) the amounts and purposes for which Federal funds were expended, and

"(iii) such other information as the Secretary may request.

"(B) The reports and records of any Native Hawaiian organization which concern any contract entered into under this subsection shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(10) The Secretary shall allow as a cost of any contract entered into under this subsection the cost of an annual private audit conducted by a certified public accountant.

"(11) The authority of the Secretary to enter into contracts under this subsection shall be to the extent, and in amounts, provided for in appropriation Acts.

"(h) For purposes of this subsection—

"(1) The term 'Native Hawaiian' means any individual who—

"(A) is a citizen of the United States,

"(B) is a resident of the State of Hawaii, and

"(C) is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records,

"(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

"(iii) birth records of the State of Hawaii.

"(2) The term 'Native Hawaiian organization' means any organization—

"(A) which serves and represents the interests of Native Hawaiians,

"(B) which is recognized by the Department of Health of the State of Hawaii, the Office of Hawaiian Affairs of the State of Hawaii, and E Ola Mau for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act for Native Hawaiians, and

"(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.

"(i) There are authorized to be appropriated \$750,000 for each of the fiscal years 1990, 1991, 1992, and 1993, for the purpose of carrying out the provisions of this subsection.

*"(j) The programs and services established by this section shall not be administered by or through the Indian Health Service nor shall any funds appropriated to the Indian Health Service be used to supplement funding of such programs and services."*

**REIMBURSEMENT OF CERTAIN EXPENSES; RESEARCH**

*SEC. 204. Title II, as amended by section 203(c), is further amended by adding at the end thereof the following new sections:*

**"REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES**

*"SEC. 206. (a) The United States shall have the right to recover the reasonable expenses incurred by the Secretary in providing health services, through the Service, 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 expenses if—*

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

*"(2) such individual had been required to pay such expenses and did pay such expenses.*

*"(b) Subsection (a) shall provide a right of recovery against any State, or any political subdivision of a 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.*

*"(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 under subsection (a).*

*"(d) No action taken by the United States to enforce the right of recovery provided under subsection (a) 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).*

*"(e) The United States may enforce the right of recovery provided under subsection (a) 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, or*

*"(B) by any representative or heirs of such individual, or*

*"(2) instituting a separate civil action, after providing to such individual, or to the representative or heirs of such individual, notice of the intention of the United States to institute a separate civil action.*

**"CREDITING OF REIMBURSEMENTS**

*"SEC. 207. (a) Except as provided in section 202(d), title IV, and section 713 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 a tribe or tribal organization under a contract pursuant to the Indian Self-Determination Act 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 any entity under contract with the Service because of the receipt of reimbursements under subsection (a).

#### **"HEALTH SERVICES RESEARCH**

"SEC. 208. 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 contracting with the Service under the authority of the Indian Self-Determination Act shall be given an equal opportunity to compete for, and receive, research funds under this section."

### **TITLE III—HEALTH FACILITIES**

#### **CONSULTATION; CLOSURE OF FACILITIES; REPORTS**

SEC. 301. Section 301 (25 U.S.C. 1631) is amended to read as follows:

#### **"CONSULTATION; 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 standards of the Joint Commission on Accreditation of Hospitals by not later than 1 year after the date on which the construction or renovation of such facility is completed.

"(b)(1) Notwithstanding any provision of law other than this subsection, no Service hospital or other outpatient health care facility of the Service, or any portion of such a hospital or facility, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such hospital or facility (or portion thereof) is proposed to be closed 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;

*"(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;*

*"(D) the availability of contract health care funds to maintain existing levels of service; and*

*"(E) the views of the Indian tribes served by such hospital or facility concerning such closure.*

*"(2) Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.*

*"(c) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992, program information documents for the construction of 10 Indian health facilities which—*

*"(1) comply with applicable construction standards, and*

*"(2) have been approved by the Secretary.*

*"(d)(1) The Secretary shall submit to the Congress an annual report which sets forth—*

*"(A) the current health facility priority system of the Service,*

*"(B) the planning, design, construction, and renovation needs for the 10 top-priority inpatient care facilities and the 10 top-priority ambulatory care facilities (together with required staff quarters),*

*"(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 facility priority system.*

*"(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.*

*"(3) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall—*

*"(A) consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act, and*

*"(B) review the needs of such tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.*

*"(4) For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.*

*"(5) The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act are fully and equitably integrated into the development of the health facility priority system.*



*"(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 sections 102 and 103(b) of the Indian Self-Determination Act."*

**SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES**

**SEC. 302.** *Section 302 (25 U.S.C. 1632) is amended to read as follows:*

**"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 and sanitary sewage and solid waste disposal systems 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;**

**"(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such systems and other preventive health measures;**

**"(4) many Indian homes and communities still lack safe water supply systems and sanitary sewage and solid waste disposal systems; 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 and sanitary sewage waste disposal systems 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 and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities;**

**"(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and**

**"(C) operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities.**

**"(3) Notwithstanding any other provision of law—**

**"(A) the Secretary of Housing and Urban Affairs is authorized to transfer funds appropriated under the Housing and**

*Community Development Act of 1974 (42 U.S.C. 5301, et seqq.) 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) Beginning in fiscal year 1990, the Secretary, acting through the Service, shall develop and begin implementation of a 10-year plan to provide safe water supply and sanitation sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.*

*"(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) The provisions of this section shall not diminish the primary responsibility of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities.*

*"(f) Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination Act shall be eligible for—*

*"(1) any funds appropriated pursuant to subsection (h), and*

*"(2) any funds appropriated for the purpose of providing water supply or sewage disposal services,*

*on an equal basis with programs that are administered directly by the Service.*

*"(g)(1) The Secretary shall submit to the Congress an annual 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 sanitation deficiency for each sanitation facilities project of each Indian tribe or community;*

*"(D) the amount of funds necessary to raise all Indian tribes and communities to a level I sanitation deficiency; and*

*"(E) the amount of funds necessary to raise all Indian tribes and communities to zero sanitation deficiency.*

*"(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.*

*"(3) 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 contract entered into with the Service under the Indian Self-Determination Act) to determine the sanitation needs of each tribe.*

*"(4) The methodology used by the Secretary in determining sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.*

*"(5) For purposes of this subsection, the sanitation deficiency levels for an Indian tribe or community are as follows:*

*"(A) level I is an Indian tribe or community with a sanitation system—*

*"(i) which complies with all applicable water supply and pollution control laws, and*

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

*"(B) level II is an Indian tribe or community with a sanitation system—*

*"(i) which complies with all applicable water supply and pollution control laws, and*

*"(ii) in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities;*

*"(C) level III is an Indian tribe or community with a sanitation system 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) level IV is an Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system; and*

*"(E) level V is an Indian tribe or community that lacks a safe water 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.*

*"(h)(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$3,000,000 for the purpose of providing funds necessary to implement the responsibilities of the Service described in subsection (b)(2).*

*"(2) In addition to the amount authorized under paragraph (1), there are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$850,000 for the sanitation service account of the Service which shall be used to carry out the responsibilities of the Service described in subsection (b)(2)."*

#### USE OF NON-SERVICE FUNDS FOR RENOVATION

SEC. 303. (a) Section 305 (25 U.S.C. 1634) is amended to read as follows:

#### "EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION

"SEC. 305. (a) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other

*Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—*

*“(1) any plans or designs for such renovation or modernization, and*

*“(2) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended, but only if the requirements of subsection (b) are met.*

*“(b) The requirements of this subsection are met with respect to any renovation or modernization if the renovation or modernization—*

*“(1) does not require or obligate the Secretary to provide any additional employees or equipment,*

*“(2) is approved by the appropriate area director of the Service, and*

*“(3) is administered by the Indian tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.*

*“(c) A renovation or modernization shall not be authorized by this section if such renovation or modernization would require the diversion of funds appropriated to the Service from any project which has a higher priority under the health facility priority system of the Service.*

*“(d) If any Service facility which has been 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 renovation or modernization is completed, 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 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 renovation or modernization.”*

*(b) The paragraph relating to administrative provisions of the Health Services Administration under the heading “Department of Health and Human Services” in title II of the matter contained in section 101(c) of Public Law 98-473 (98 Stat. 1864) is amended by striking out the sixth proviso.*

**BETHEL, ALASKA, HOSPITAL**

**SEC. 304.** Title III is amended by adding at the end thereof the following new section:

**“BETHEL, ALASKA, HOSPITAL**

**“SEC. 306. (a)** If a final administrative ruling by the Department of the Interior holds that the Bethel Native Corporation is entitled to conveyance under the Alaska Native Claims Settlement Act of the title to the real property described in subsection (d)(1), such ruling shall be subject to judicial review.

**“(b)** The Secretary is authorized to enter into an agreement with Bethel Native Corporation for an exchange of the real property described in subsection (d)(1) for—

**“(1)** the lands described in subsection (d)(2), or

*"(2) any other Federal property which Bethel Native Corporation would have been able to select under the Alaska Native Claims Settlement Act.*

*"(c) If an agreement for the exchange of land is not entered into under subsection (b) before the date that is 90 days after the date on which a ruling described in subsection (a) becomes final and is no longer appealable, the Secretary shall, subject to the availability of funds provided by Appropriations Acts, purchase the lands described in subsection (d)(1) at fair market value.*

*"(d)(1) The real property referred to in subsection (a) is United States Survey Numbered 4000, other than the lands described in paragraph (2).*

*"(2) The lands referred to in subsection (b)(1) are the lands identified as tracts A and B in the determination AA-18959 of the Bureau of Land Management issued on September 30, 1983, pursuant to the Alaska Native Claims Settlement Act."*

#### **TITLE IV—ACCESS TO HEALTH SERVICES**

##### **MEDICAID PROVISIONS**

**SEC. 401.** (a) Subsection (c) of section 402 (42 U.S.C. 1396j, note) is amended—

(1) by striking out "or skilled nursing facility" and inserting in lieu thereof "skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under a State plan for medical assistance approved under title XIX of the Social Security Act",

(2) by striking out "a State plan approved under title XIX of the Social Security Act" and inserting in lieu thereof "such a State plan", and

(3) by striking out "The preceding sentence shall" and inserting in lieu thereof "In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of title XIX of the Social Security Act. This subsection shall".

(b) Subsection (b) of section 402 (42 U.S.C. 1396j, note) is repealed.

(c) The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

##### **DEMONSTRATION PROGRAM**

**SEC. 402.** Title IV is amended by adding at the end thereof the following new section:

**"DEMONSTRATION PROGRAM FOR DIRECT BILLING OF MEDICARE,  
MEDICAID, AND OTHER THIRD PARTY PAYORS**

**"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 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(c) and 713(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 so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions or 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 to be 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 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 on September 30, 1995.*

*"(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 under 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 1995, on the activities carried out under the demonstration program described in subsection (a) which shall include an evaluation of whether such activities 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 of, 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 the 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."*

## **TITLE V—URBAN INDIAN HEALTH SERVICES**

### **REVISION OF PROGRAM**

**SEC. 501.** Title V (25 U.S.C. 1651, et seq.) is amended to read as follows:

## "TITLE V—HEALTH SERVICES FOR URBAN INDIANS

### "PURPOSE

"SEC. 501. The purpose of this title is to establish programs in urban centers to make health services more accessible to urban Indians.

### "CONTRACTS WITH 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 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, 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 any urban Indian organization pursuant to this title.

### "CONTRACTS 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 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 shall include requirements that the urban Indian organization successfully undertake to—

"(1) estimate the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

"(2) estimate the current health status of urban Indians residing in such urban center;

"(3) estimate the current health care needs of urban Indians residing in such urban center;

"(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;

"(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improv-



ing health service programs to meet the needs of urban Indians; and

"(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 prescribe the criteria for selecting urban Indian organizations to enter into contracts 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 involved;

"(2) the size of the urban Indian population in the urban center 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;

"(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 under this section;

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

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

"(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.

#### **"CONTRACTS 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 urban Indian organizations situated in urban centers for which contracts have not been entered into under section 503. The purpose of a contract 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 under section 503 with the urban Indian organization with which the Secretary has entered into a contract under this section.

"(b) Any contract entered into 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 (8) of section 503(b); and*

*"(2) the urban Indian organization complete performance of the contract within one year after the date on which the Secretary and such organization enter into such contract.*

*"(c) The Secretary may not renew any contract entered into under this section.*

#### *"EVALUATIONS; CONTRACT RENEWALS*

*"SEC. 505. (a) The Secretary, through the Service, shall develop procedures to evaluate 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 conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract under section 503 for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.*

*"(c) If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract 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 with such organization and is authorized to enter into a contract under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract is not renewed under this section.*

*"(d) In determining whether to renew a contract with an urban Indian organization under section 503 which has completed performance of a contract 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 under section 503, shall consider the results of the onsite evaluations conducted under subsection (b).*

#### *"OTHER CONTRACT 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 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 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.*

*"(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 entered into pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.*

*"(e) Contracts with 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 by such organizations.*

*"(f) Urban Indians, as defined in section 4(f) of this Act, shall be eligible for health care or referral services provided pursuant to this title.*

#### **"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 pursuant to this title, such organization shall submit to the Secretary a quarterly report including—*

*"(1) in the case of a contract under section 503, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;*

*"(2) information on activities conducted by the organization pursuant to the contract;*

*"(3) an accounting of the amounts and purposes for which Federal funds were expended; and*

*"(4) such other information as the Secretary may request.*

*"(b) The reports and records of the urban Indian organization with respect to a contract 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 entered into under section 503 the cost of an annual private audit conducted by a certified public accountant.*

#### **"LIMITATION ON CONTRACT AUTHORITY**

*"SEC. 508. The authority of the Secretary to enter into contracts under this title shall be to the extent, and in an amount, provided for in appropriation Acts."*

#### **URBAN INDIAN ORGANIZATION**

*SEC. 502. Subsection (h) of section 4 (25 U.S.C. 1603(h)) is amended by inserting "urban" after "governed by an".*

## TITLE VI—ORGANIZATIONAL IMPROVEMENTS

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

SEC. 601. (a) Title VI (25 U.S.C. 1661) is amended to read as follows:

### “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 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 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 Secretary. 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.

“(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 as 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 (25 U.S.C. 2005, et seq.);

and

“(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.).

“(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 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 appropriate 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).*

**"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.*

*"(3) By no later than September 30, 1989, the Secretary shall submit a report to Congress setting forth—*

*"(A) the activities which have been undertaken to establish an automated management information system,*

*"(B) the activities, if any, which remain to be undertaken to complete the implementation of an automated management information system, and*

*"(C) the amount of funds which will be needed to complete the implementation of a management information system in the succeeding fiscal years.*

*"(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—*

*"(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 of patients of the Service, and*

*"(B) meet the management information needs of the Service.*

*"(2) The Secretary shall reimburse each Indian tribe or tribal organization for the part of the cost of the operation of a system provided under paragraph (1) which is attributable to the treatment by such Indian tribe or tribal organization of patients of the Service.*

*"(3) 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."*

*(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 transferred 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 authorized 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.

(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 (b) and (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.

(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."*

## TITLE VII—MISCELLANEOUS PROVISIONS

### LEASING AND OTHER CONTRACTS

SEC. 701. Section 704 (25 U.S.C. 1674) is amended—

(1) by striking out "Notwithstanding", and inserting in lieu thereof "(a) Notwithstanding", and

(2) by adding at the end thereof the following new subsection:

*"(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*

*"(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. 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."*

### ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

SEC. 702. (a) Subsection (a) of section 708 (25 U.S.C. 1678(a)) is amended—

(1) by striking out "1984" and inserting in lieu thereof "1991", and

(2) by striking out "Indians in such State" and inserting in lieu thereof "members of federally recognized Indian tribes of Arizona".

(b) Section 708 (25 U.S.C. 1678(c)) is amended by striking out subsection (c).

## ELIGIBILITY OF CALIFORNIA INDIANS

SEC. 703. Section 709 (25 U.S.C. 1679) is amended to read as follows:

## "ELIGIBILITY OF CALIFORNIA INDIANS

"SEC. 709. (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 Secretary 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 subsection (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) 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

"(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.

"(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."

**CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA**

*SEC. 704. Section 710 (25 U.S.C. 1680) is amended to read as follows:*

**"CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA**

*"SEC. 710. 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."*

**CONTRACT HEALTH FACILITIES**

*SEC. 705. Title VII is amended by adding at the end thereof the following new section:*

**"CONTRACT HEALTH FACILITIES**

*"SEC. 711. The Service shall provide funds for health care programs and facilities operated by tribes and tribal organizations under contracts with the Service entered into under the Indian Self-Determination 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,*

*on the same basis as such funds are provided to programs and facilities operated directly by the Service."*

**NATIONAL HEALTH SERVICE CORPS**

*SEC. 706. Title VII, as amended by section 705 of this Act, is further amended by adding at the end thereof the following new section:*

**"NATIONAL HEALTH SERVICE CORPS**

*"SEC. 712. The Secretary of Health and Human Services shall not—*

*"(1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act, or*

*"(2) withdraw funding used to support such member, unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services."*

**HEALTH SERVICES FOR INELIGIBLE PERSONS**

*SEC. 707. (a) Title VII, as amended by section 706 of this Act, is further amended by adding at the end thereof the following new section:*



**"HEALTH SERVICES FOR INELIGIBLE PERSONS**

**"SEC. 713. (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 the 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 such disability has been removed.**

**"(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 of such spouses are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe 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 facilities 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 facility or services, 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 facilities operated under a contract entered into under the Indian Self-Determination 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 contract to individuals who are not eligible for such health services under any other subsection of 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) 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(c) 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 facility providing the service and shall be used solely for the provision of health services within that facility. Amounts collected under this subsection shall be available for expenditure within such facility for not to exceed one fiscal year after the fiscal year in which collected.*

*"(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 provision 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 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. 708. Title VII, as amended by section 707 of this Act, is further amended by adding at the end thereof the following new section:

**"INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME**

"SEC. 714. (a) 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

"(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.

"(b) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in subsection (a)."

**CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA**

SEC. 709. Title VII, as amended by section 708 of this Act, is further amended by adding at the end thereof the following new section:

**"CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA**

"SEC. 715. (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."

**INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION HEALTH  
FACILITIES AND SERVICES SHARING**

**SEC. 710.** Title VII, as amended by section 709 of this Act, is further amended by adding at the end thereof the following new section:

**"INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION HEALTH  
FACILITIES AND SERVICES SHARING**

**"SEC. 716. (a)** The Secretary shall examine the feasibility of entering into an arrangement for the sharing of medical facilities and services between the Indian Health Service and the Veterans' Administration 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.

**"(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;

**"(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 Veterans' 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.

**"(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 under 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).

**"(d)** 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)."

**REALLOCATION OF BASE RESOURCES**

**SEC. 711.** Title VII, as amended by section 710 of this Act, is further amended by adding at the end thereof the following new section:

**"REALLOCATION OF BASE RESOURCES**

**"SEC. 717. (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 Congress 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."

**PROVISION OF SERVICES IN MONTANA**

**SEC. 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 Cir. 1987).

**(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.

**DEMONSTRATION PROJECTS FOR TRIBAL MANAGEMENT OF HEALTH CARE SERVICES**

**SEC. 713.** Title VII, as amended by section 711 of this Act, is amended by adding at the end thereof the following new section:

**"DEMONSTRATION PROJECTS FOR TRIBAL MANAGEMENT OF HEALTH CARE SERVICES**

**"SEC. 718. (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, and 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.*

*"(2) By no later than September 30, 1994, 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.*

*"(e) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section."*

#### HEALTH CARE FOR RURAL AREAS

*SEC. 714. Title VII of the Public Health Service Act is amended by adding at the end thereof the following:*

#### *"PART I—HEALTH CARE FOR RURAL AREAS*

##### *"HEALTH CARE FOR RURAL AREAS*

*"SEC. 799A. (a) The Secretary is authorized to make grants to, or enter into contracts with, any eligible applicant to help such applicant fund authorized activities under an application and approved under subsection (d).*

*"(b)(1) Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary projects designed to use new and innovative methods and models to—*

*"(A) train health care practitioners to provide services in rural areas;*

*"(B) provide access to cost-effective, comprehensive health care to individuals residing in rural areas;*

*"(C) enhance the amount of research conducted concerning health care delivery in rural areas; and*

*"(D) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.*

*"(2) A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—*

*"(A) the distribution of stipends to students of eligible applicants;*

*"(B) the establishment of a post-graduate fellowship program;*

*"(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or*

*"(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.*

*"(3)(A) An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.*

*"(B) Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.*

*"(c) Applicants eligible to obtain funds under subsection (a) shall include nonprofit organizations and public or nonprofit colleges, universities, or schools of, or programs that specialize in, nursing, psychology, social work, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, and allied health professions if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.*

*"(d)(1) In order to receive a grant or contract under subsection (a) an entity shall submit an application to the Secretary.*

*"(2) An application submitted under this subsection shall be in such form, be submitted by such date, and contain such information as the Secretary shall require.*

*"(3) Applications submitted under this subsection shall—*

*"(A) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas;*

*"(B) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community mental health centers, long-term care facilities, facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act, or Native Hawaiian health centers; and*

*"(C) provide any additional information required by the Secretary.*

*"(e)(1) The Secretary shall enter into a contract to conduct a study of manpower training needs in rural areas, with attention focused on the supply of health professionals and whether such supply is adequate to meet the demands for health care services in rural communities.*

*"(2)(A) The study conducted under paragraph (1) shall include statistics and projections on—*

*"(i) the supply of health care practitioners in rural areas; and*

*"(ii) suggested methods of improving access to health care services in rural areas.*

*The study shall pay particular attention to the needs of the elderly in rural areas.*

*"(B) The study conducted under paragraph (1) shall evaluate existing models for health care training and service delivery and propose innovative alternative models to enhance the quality and availability of health care services in rural areas and to increase the retention of health professionals in rural areas.*

*"(3) The Secretary shall evaluate the effectiveness of the health care training and service delivery models developed with funds made available under this section and compare such models with programs designed to increase the availability of health care provid-*

ers in rural areas, including the National Health Service Corps program authorized by subpart II of part D of the Public Health Service Act (42 U.S.C. 254d et seq.) and the area health education center program authorized under section 781 of such Act (42 U.S.C. 295g-1).

"(4) Not later than 18 months after the date of the signing of the contract for the health care study under paragraph (1), the Secretary shall submit to the appropriate committees of the Congress a report that describes the results of the study conducted under paragraph (1).

"(f)(1) Each application for a grant or contract under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application.

"(2) The Secretary shall establish such peer review groups as may be necessary to carry out paragraph (1). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

"(3) With respect to applications referred to in paragraph (1), a peer review group established pursuant to paragraph (2) shall report its findings and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(4) This paragraph shall be carried out by the Secretary, acting through Health Resources and Services Administration.

"(g) For the purposes of this section, the term 'rural area' includes a frontier area, which is an area in which the population density is less than 7 individuals per square mile.

"(h)(1) There are authorized to be appropriated to carry out the provisions of this section, other than subsection (e), \$5,000,000 for fiscal year 1989.

"(2) There are authorized to be appropriated \$1,000,000 for fiscal year 1989 to carry out subsection (e).

"(g) This section shall cease to be effective on October 1, 1989."

#### CHILD SEXUAL ABUSE TREATMENT PROGRAMS

SEC. 715. Title VII, as amended by section 713 of this Act, is amended by adding at the end thereof the following new section:

#### "CHILD SEXUAL ABUSE TREATMENT PROGRAMS

"SEC. 719. (a) The Secretary and the Secretary of the Interior shall, for each of the fiscal years 1989, 1990, and 1991, continue to provide through the Hopi Tribe and the Asiniboine and Sioux Tribes of the Fort Peck Reservation the demonstration programs involving treatment for child sexual abuse that were conducted during fiscal year 1988 through such tribes.

"(b) There are authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section."

#### PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

SEC. 716. Title VII, as amended by section 715, is further amended by adding at the end thereof the following new section:



**"PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN  
PUEBLO, NEW MEXICO**

**"SEC. 720. (a)** *The Secretary, through the Service, shall make grants to the Eight 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.*

**"(b)** *There are authorized to be appropriated to carry out this section \$250,000 for each of the fiscal years 1990 and 1991."*

**STUDY WITH RESPECT TO NUCLEAR RESOURCE DEVELOPMENT HEALTH  
HAZARDS**

**SEC. 717. (a)** *The Secretary of Health and Human Services (acting through the Indian Health Service), the Secretary of the Interior (acting through the Bureau of Indian Affairs), and the Secretary of Energy shall jointly conduct a study for the purpose of determining—*

- (1) the number of active nuclear resource development sites on Indian lands in the United States;*
- (2) the Federal agencies that carry out Federal responsibilities with respect to each such site;*
- (3) the health hazards that exist as a result of such sites;*
- (4) the remedial actions which have been undertaken with respect to such health hazards;*
- (5) remedial actions that are needed with respect to such health hazards; and*
- (6) the amount of funds that would be necessary each year to implement and maintain such needed remedial actions and the date by which the remedial actions would be implemented if sufficient funds were to provide for the remedial actions.*

**(b)** *By no later than the date that is 2 years after the date of enactment of this Act, a report shall be submitted to the Congress describing the findings and conclusions made as a result of carrying out the study required in subsection (a).*

**LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH  
SERVICE**

**SEC. 718.** *Section 706 (25 U.S.C. 1676) is amended to read as follows:*

**"LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN  
HEALTH SERVICE**

**"SEC. 706.** *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."*

**ELIGIBILITY FOR SERVICES**

**SEC. 719. (a)** *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 Re-*

sources 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 709 of the Indian Health Care Improvement Act, as amended by 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 impact 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 Services;

(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 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.

#### **TITLE VIII—SEVERABILITY PROVISION**

**SEC. 801.** If any provision of this Act, any amendment made by this 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 provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. And the Senate agree to the same.*

From the Committee on Interior and Insular Affairs:

MO UDALL,  
BILL RICHARDSON,  
BEN NIGHTHORSE CAMPBELL,  
DON YOUNG,  
JOHN J. RHODES,

From the Committee on Energy and Commerce:

JOHN D. DINGELL,  
HENRY A. WAXMAN,  
RON WYDEN,  
HOWARD C. NIELSON,

*Managers on the Part of the House.*

DANIEL K. INOUE,  
JOHN MELCHER,  
DENNIS DECONCINI,  
QUENTIN N. BURDICK,  
TOM DASCHLE,  
DANIEL J. EVANS,  
FRANK MURKOWSKI,  
JOHN MCCAIN,

*Managers on the Part of the Senate.*



## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5261) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The Senate recedes from its amendments to sections numbered 3 of House bill, 101, 106(d), 107, 109, 201(a), 201(e), 201(g), 201(h)(1)(B), 201(j), 202(d), 202(e), 203(a)(2), 203(a)(3), 203(c), 203(d), 205, 401, 501, 502, 503, 504, 505, 506, 507, 508, 601 of House bill, 702, 703, 704, 705, 706, 707, 708, 711, 712, 717, 614 of House bill, 615 of House bill, 616 of House bill, 801, 802, 803, 804, 805, 806, 807, 1002, 1004, 1005, 1006, 1101, 1102, and 1109.

The House recedes from its disagreement to the amendments of the Senate to sections numbered 1, 2, 3, 102, 103, 105, 106 (a), 201(b), 201(c), 201 (d), 201(d), 201(f), 201(h)(1)(A), 201(h)(2), 201(i), 201(b), 202(a), 202(b), 202(c), 203(a)(1), 203(b), 203(e), 204, 301, 304, 601, 616 of House bill, 701, 710, 716, 902, 904, 1103, 1104, 1105, 1110 and 1201.

Amendment to section numbered 104:

That the Senate recede from its disagreement to the amendment of the House numbered 104(a), and agree to the same with an amendment as follows: *To include in section 104(a) of the bill, in the list of appropriately accredited schools, schools of social work.*

Amendments to section numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106(a), and agree to the same with an amendment as follows: *To provide that the Secretary shall provide scholarship assistance pursuant to a contract with the Kamehameha Schools Bishop Estate for the administration of the Native Hawaiian Health Scholarship program.*

That the Senate recede from its disagreement to the amendment of the House numbered 106(b)(2), and agree to the same with an amendment as follows: *To provide that the Native Hawaiian*

*Health Scholarship program shall not be administered by or through the Indian Health Service.*

That the House recede from its disagreement to the amendment of the Senate numbered 106(c), and agree to the same with an amendment as follows: *To provide that the term "Native Hawaiian" means any individual who is—(1) a citizen of the United States, (2) a resident of the State of Hawaii, and (3) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—(A) genealogic records, (B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or (C) birth records of the State of Hawaii.*

That the Senate recede from its disagreement to the amendment of the House numbered 106(d), and agree to the same with an amendment as follows: *To strike the authorization of appropriations for fiscal year 1989.*

Amendments to section numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108(b)(2), and agree to the same with an amendment as follows: *To strike the authorization for institutions or programs that receive grants under subsection (a) to allow individuals who are receiving training, or advanced skill training, in nursing or nurse midwifery to participate in joint programs that allow the individual to obtain degrees in other academic disciplines.*

That the House recede from its disagreement to the amendment of the Senate numbered 108(e)(1), and agree to the same with an amendment as follows: *To strike the authorization of appropriations for fiscal year 1989.*

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment as follows: *To provide that 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 under paragraph (A) or (B) of subsection (b)(1) of section 108 that is funded by a grant provided under subsection (a) of section 108; and to provide further that 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 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.*

Amendments to section 201:

That the House recede from its disagreement to the amendment of the Senate numbered 201(e), and agree to the same with an amendment as follows: *To strike the amendment of the Senate numbered 201(e).*

That the House recede from its disagreement to the amendment of the Senate numbered 201(g), and agree to the same with an amendment as follows: *To strike the amendment of the Senate numbered 201(g).*

That the House recede from its disagreement to the amendment of the Senate numbered 201(j), and agree to the same with an amendment as follows: *To strike the authorization for appropriations for fiscal year 1989.*

Amendments to section 202:

That the House recede from its disagreement to the amendment of the Senate numbered 202(e), and agree to the same with an amendment as follows: *To strike the authorization for appropriations for fiscal year 1989.*

Amendments to section 203:

That the House recede from its disagreement to the amendment of the Senate numbered 203(a), and agree to the same with an amendment as follows: *To strike Congressional findings set forth in sections 203(a)(2) and 203(a)(3).*

That the House recede from its disagreement to the amendment of the Senate numbered 203(f)(3)(A)(iii)(I), and agree to the same with an amendment as follows: *In lieu of the term "newly diagnosed diabetics", insert the words "individuals diagnosed as diabetics".*

That the House recede from its disagreement to the amendment of the Senate numbered 203(f)(7)(C), and agree to the same with an amendment as follows: *Strike the words "annual onsite" before the words "evaluation of each Native Hawaiian organization".*

That the House recede from its disagreement to the amendment of the Senate numbered 203(f)(7)(H), and agree to the same with an amendment as follows: *Strike the words "except that whenever such organization requests retrocession of any contract entered into under this subsection, such retrocession shall become effective upon a date specified by the Secretary that is not more than 120 days after the date of the request by such organization or at such later date as may be mutually agreed to by the Secretary and such organization.", and insert a period after the words "purposes of this subsection".*

That the House recede from its disagreement to the amendment of the Senate numbered 203(f)(8), and agree to the same with an amendment as follows: *To provide that the term "Native Hawaiian" means any individual who—(i) is a citizen of the United States, (ii) is a resident of the State of Hawaii, (iii) is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—(I) genealogical records, (II) Kupuna (elders) or Kama'aina (long-term community residents) verification, or (III) birth records of the State of Hawaii.*

That the House recede from its disagreement to the amendment of the Senate numbered 203(f)(9), and agree to the same with an amendment as follows: *To strike the authorization for appropriations for fiscal year 1989.*

Amendment to section 302:

That the House recede from its disagreement to the amendment of the Senate numbered 302(h)(2), and agree to the same with an amendment as follows: *To strike the reference to "30 new full-time equivalents".*

Amendment to section 303:

That the House recede from its disagreement to the amendment of the Senate numbered 303(d), and agree to the same with an

amendment as follows: *To strike the words "subject to the availability of funds provided by Appropriations Acts".*

Amendment to section 402:

That the House recede from its disagreement to the amendment of the Senate numbered 402(b), and agree to the same with an amendment as follows: *To provide that the proposed amendments amend the relevant provisions of the Indian Health Care Improvement Act, rather than the provisions of the Social Security Act.*

Amendment to section 403:

That the House recede from its disagreement to the amendment of the Senate numbered 403, and agree to the same with an amendment as follows: *To provide that the Federal medical assistance percentage under the medicaid program shall be consistent with the requirements of section 1905(b) of the Social Security Act.*

Amendment to section 709:

That the House recede from its disagreement to the amendment of the Senate numbered 709, and agree to the same with an amendment as follows: *To delete the requirement that the Secretary's plan for the reduction of fetal alcohol syndrome and fetal alcohol effect must include the objective of reducing such rates to "the rate of fetal alcohol syndrome and such fetal alcohol effect applicable to the United States population as a whole".*

Amendment to section 713:

That the House recede from its disagreement to the amendment of the Senate numbered 713, and agree to the same with an amendment as follows: *To insert as subsection (a) the language contained in the amendment of the Senate numbered section 713, and to add at the end thereof a new subsection (b) which provides that "(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."*

Amendment to section 714:

That the House recede from its disagreement to the amendment of the Senate numbered 714, and agree to the same with an amendment as follows: *To change the termination date of the demonstration program from September 30, 1992 to September 30, 1993.*

That the House recede from its disagreement to the amendment of the Senate numbered 714, and agree to the same with an amendment as follows: *To change the evaluation date of the demonstration program from September 30, 1992 to September 30, 1994.*

That the House recede from its disagreement to the amendment of the Senate numbered 714, and agree to the same with a provision in the statement of the managers as follows: *It is the intent of the conferees that because the Tohono O'Odham Demonstration Program serves as the basis for the authority established in section 714 of the Senate amendment, and because the Tohono O'Odham Nation has completed two of four years of its demonstration program, as provided for in Appropriations Acts of the Congress, the conferees agree that the Tohono O'Odham Demonstration Program should be given a priority in the receipt of funding in any appropriations that are made available under the authority of this section, or any other provision of law, for purposes of this demonstration program.*



Amendments to section 715:

That the House recede from its disagreement to the amendment of the Senate numbered 715, and agree to the same with amendments as follows: *Delete all references to "frontier areas" and define the term under the definition of "rural areas"; to require peer review of all grant or contract applications; to delete the term "health care providers" and insert in lieu thereof the term "health care practitioners" wherever the former term appears; to provide that a recipient of funds must demonstrate a need for the purchase or rental of transportation and telecommunication equipment based on the unique characteristics of the rural area; to provide that applicants eligible to obtain funds under subsection (a) shall not include for profit entities, either directly or through a subcontract or grant; to provide that for the conduct of a study of manpower training needs in rural areas, that the requirement that Secretary shall contract "with a non-profit health care association with expertise in rural and frontier health care and membership representing the full range of health care professional and health care providers" is deleted; to provide the section shall cease to be effective on October 1, 1989; and to direct that the program shall be administered by the Health Resources and Service Administration; and to amend the Public Health Service Act.*

Amendment to sections 901 and 902:

That the House recede from its disagreement to the amendments of the Senate numbered 901 and 902, and agree to the same with an amendment as follows: *To strike sections 901 and 902, and insert in lieu thereof the following language: "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 709 of the Indian Health Care Improvement Act, as amended by this Act."*

Amendment to section 903:

That the House recede from its disagreement to the amendment of the Senate numbered 903, and agree to the same with an amendment as follows: *To strike all references in the section to the Office of Technology Assessment, and to provide that the study and the report to the Congress and the comment requirements of section 903 be carried out by the Secretary of Health and Human Services, acting through the Indian Health Service, by contract or any other means.*

Amendment to section 1001:

That the Senate recede from its disagreement to the amendment of the House numbered 108(a)(1), and agree to the same with an amendment as follows: *To include within the list of professions for which an adequate supply might be assured under the terms of the Indian Health Service Loan Repayment Program, the terms "clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work."*

Amendment to section 1003:

That the Senate recede from its disagreement to the amendment of the House numbered 108(c)(1), and agree to the same with an amendment as follows: *To include the requirement contained in the first sentence of Senate amendment 1003(b)(2), to provide that: "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."*

Amendment to section 1107:

That the House recede from its disagreement to the amendment of the Senate numbered 1107, and agree to the same with an amendment as follows: *To make the provision of incentive special pay, the provision of bonuses, and the allowance of the use of flexible work schedules and compressed work schedules, matters of Secretarial discretion; and to limit the amounts authorized for appropriations to carry out the provisions of section 1107 to \$600,000 for each of the fiscal years 1990 through 1992.*

Amendment to section 1108:

That the House recede from its disagreement to the amendment of the Senate numbered 1108, and agree to the same with an amendment as follows: *To make the payment of retention bonuses and the establishment of rates for retention bonuses, matters of Secretarial discretion; to establish that the requirement to refund to the government the full amount of the retention bonus plus interest for failure to complete the agreed upon term of service, is to be determined by the Secretary in accordance with House amendment numbered 108(1)(2)(B); and to limit the amounts authorized for appropriations to carry out the provisions of section 1108 to \$3,200,000 for each of the fiscal year 1990 through 1992.*

Amendment to section 1109:

That the Senate recede from its disagreement to the amendment of the House striking section 1109, and agree to the same with the inclusion of language in the statement of managers as follows: *It is the intention of the conferees that the Secretary should undertake an evaluation of the feasibility of using foreign medical graduates to assist in the delivery of health care in hospital facilities of the*

*Indian Health Service, consistent with the assessments and requirements contemplated in section 1109.*

From the Committee on Interior and Insular Affairs:

MO UDALL,  
BILL RICHARDSON,  
BEN NIGHTHORSE CAMPBELL,  
DON YOUNG,  
JOHN J. RHODES,

From the Committee on Energy and Commerce:

JOHN D. DINGELL,  
HENRY A. WAXMAN,  
RON WYDEN,  
HOWARD C. NIELSON,

*Managers on the Part of the House.*

DANIEL K. INOUE,  
JOHN MELCHER,  
DENNIS DECONCINI,  
QUENTIN N. BURDICK,  
TOM DASCHLE,  
DANIEL J. EVANS,  
FRANK MURKOWSKI,  
JOHN MCCAIN,

*Managers on the Part of the Senate.*

○