117TH CONGRESS
2D SESSION

S. 4915

To amend the Indian Health Care Improvement Act to improve the recruitment and retention of employees in the Indian Health Service, restore accountability in the Indian Health Service, improve health services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2022

Mr. BARRASSO (for himself, Mr. THUNE, Ms. LUMMIS, Mr. ROUNDS, Mr. DAINES, and Mr. HOEVEN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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A BILL

To amend the Indian Health Care Improvement Act to improve the recruitment and retention of employees in the Indian Health Service, restore accountability in the Indian Health Service, improve health services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the ''Restoring Account-
5 ability in the Indian Health Service Act of 2022''.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—INDIAN HEALTH SERVICE IMPROVEMENTS

Sec. 101. Incentives for recruitment and retention.
Sec. 102. Medical credentialing system.
Sec. 103. Liability protections for health professional volunteers at Indian Health Service.
Sec. 104. Clarification regarding eligibility for Indian Health Service loan repayment program.
Sec. 105. Improvements in hiring practices.
Sec. 106. Improved authorities of secretary to improve accountability of senior executives and employees of the Indian Health Service.
Sec. 107. Tribal culture and history.
Sec. 108. Staffing demonstration program.
Sec. 109. Rule establishing Tribal consultation policy.
Sec. 110. Treatment of certain hospitals.
Sec. 111. Enhancing quality of care in the Indian Health Service.
Sec. 112. Notification of investigation regarding professional conduct; submission of records.
Sec. 113. Medical chaperones; Office of Patient Advocacy.
Sec. 114. Fitness of health care providers.
Sec. 115. Standards to improve timeliness of care.

TITLE II—EMPLOYEE PROTECTIONS

Sec. 201. Employee protections against retaliation.
Sec. 202. Right of Federal employees to petition Congress.
Sec. 203. Fiscal accountability.

TITLE III—REPORTS

Sec. 301. Definitions.
Sec. 302. Reports by the Secretary of Health and Human Services.
Sec. 303. Reports by the Comptroller General.
Sec. 304. Inspector General reports.
Sec. 305. Transparency in CMS surveys.

TITLE IV—TECHNICAL AMENDMENTS

Sec. 401. Technical amendments.

1 # TITLE I—INDIAN HEALTH
2 # SERVICE IMPROVEMENTS

3 **SEC. 101. INCENTIVES FOR RECRUITMENT AND RETEN-**
4 **TION.**

5 Title I of the Indian Health Care Improvement Act
6 (25 U.S.C. 1611 et seq.) is amended by adding at the end
7 the following:

1 **"SEC. 125. INCENTIVES FOR RECRUITMENT AND RETEN-**
2 **TION.**

3 "(a) PARITY IN IHS HEALTH CARE WORKFORCE
4 PERSONNEL AND PAY SYSTEM.—The Secretary shall es-
5 tablish a personnel and pay system for physicians, den-
6 tists, nurses, and other health care professionals employed
7 by the Service that provides a personnel and pay system
8 that, to the maximum extent practicable, is comparable
9 to the pay provided to physicians, dentists, nurses, and
10 other health care professionals, respectively, under sub-
11 chapters III and IV of chapter 74 of title 38, United
12 States Code.

13 "(b) HOUSING VOUCHERS.—

14 "(1) IN GENERAL.—Subject to paragraph (2),
15 not later than 1 year after the date of enactment of
16 the Restoring Accountability in the Indian Health
17 Service Act of 2022, the Secretary may establish a
18 program to provide tenant-based rental assistance to
19 an employee of the Service who—

20 "(A) agrees to serve for not less than 1
21 year at a Service unit designated by the Admin-
22 istrator of the Health Resources and Services
23 Administration as a health professional short-
24 age area (as defined in section 332(a) of the
25 Public Health Service Act (42 U.S.C. 254e(a)))
26 with the greatest staffing need; and

1 "(B) is a critical employee, as determined
2 by the Secretary.
3 "(2) SUNSET.—Any program established by the
4 Secretary under paragraph (1) shall terminate on
5 the date that is 3 years after the date on which the
6 program is established.
7 "(3) REPORTS.—Not later than 1 year after the
8 date on which a program established under para-
9 graph (1) is terminated in accordance with para-
10 graph (2), the Secretary shall submit to Congress a
11 report describing, with respect to that program—
12 "(A) the costs of the program;
13 "(B) employee uptake of the program; and
14 "(C) the effects of the program on local fa-
15 cility staffing needs.
16 "(c) ADMINISTRATION.—The Secretary may only
17 provide a benefit under subsection (b) to—
18 "(1) a full-time employee who agrees to serve
19 for not less than 1 year in the Service beginning on
20 the date of the agreement; or
21 "(2) a part-time employee who agrees to serve
22 for not less than 2 years in the service beginning on
23 the date of the agreement.".

1 **SEC. 102. MEDICAL CREDENTIALING SYSTEM.**

2 Title I of the Indian Health Care Improvement Act
3 (25 U.S.C. 1611 et seq.) (as amended by section 101) is
4 amended by adding at the end the following:

5 **"SEC. 126. MEDICAL CREDENTIALING SYSTEM.**

6 ''(a) IN GENERAL.—

7 ''(1) DEVELOPMENT AND IMPLEMENTATION
8 TIMELINE.—Not later than 1 year after the date of
9 enactment of the Restoring Accountability in the In-
10 dian Health Service Act of 2022, the Secretary, act-
11 ing through the Service (referred to in this section
12 as the 'Secretary'), in accordance with subsection
13 (b), shall develop and implement a Service-wide cen-
14 tralized credentialing system (referred to in this sec-
15 tion as the 'credentialing system') to credential li-
16 censed health professionals who seek to provide
17 health care services at any Service unit.

18 ''(2) IMPLEMENTATION.—In implementing the
19 credentialing system, the Secretary—

20 ''(A) shall not require re-credentialing of
21 licensed health professionals who were
22 credentialed using existing Service policy prior
23 to the date of enactment of the Restoring Ac-
24 countability in the Indian Health Service Act of
25 2022; and

26 ''(B) shall—

1 "(i) use the credentialing system
2 for—
3 "(I) all applications for
4 credentialing or re-credentialing of li-
5 censed health professionals submitted
6 on or after the date of enactment of
7 the Restoring Accountability in the
8 Indian Health Service Act of 2022;
9 and
10 "(II) the migration into the
11 credentialing system of credentials
12 data that existed prior to implementa-
13 tion of the credentialing system; and
14 "(ii) maintain the established timeline
15 for re-credentialing of licensed health pro-
16 fessionals who were credentialed prior to
17 implementation of the credentialing sys-
18 tem, as defined by Service policy.
19 "(b) REQUIREMENTS.—
20 "(1) IN GENERAL.—In developing the
21 credentialing system under subsection (a), the Sec-
22 retary shall ensure that—
23 "(A) credentialing procedures shall be uni-
24 form throughout the Service; and

1 "(B) with respect to each licensed health
2 professional who successfully completes the
3 credentialing procedures of the credentialing
4 system, the Secretary may authorize the li-
5 censed health professional to provide health
6 care services at any Service unit.
7 "(2) EXEMPTION.—The requirements described
8 in paragraph (1) shall not apply to licensed health
9 professionals who were credentialed using existing
10 Service policy prior to the date of enactment of the
11 Restoring Accountability in the Indian Health Serv-
12 ice Act of 2022 until the date on which those li-
13 censed health professionals are required to be re-
14 credentialed in accordance with the credentialing
15 system developed and implemented under subsection
16 (a).
17 "(c) CONSULTATION.—In developing the
18 credentialing system under subsection (a), the Secretary—
19 "(1) shall consult with Indian tribes; and
20 "(2) may consult with—
21 "(A) any public or private association of
22 medical providers;
23 "(B) any government agency; or
24 "(C) any other relevant expert, as deter-
25 mined by the Secretary.

1 “(d) APPLICATION.—

2 “(1) IN GENERAL.—Subject to paragraph (2), a
3 licensed health care professional may not provide
4 health care services at any Service unit, unless the
5 licensed health care professional successfully com-
6 pletes the credentialing procedures of the
7 credentialing system developed and implemented
8 under subsection (a).

9 “(2) EXEMPTION.—Paragraph (1) shall not
10 apply to licensed health professionals who were
11 credentialed using existing Service policy prior to the
12 date of enactment of the Restoring Accountability in
13 the Indian Health Service Act of 2022 until the date
14 on which those licensed health professionals are re-
15 quired to be re-credentialed in accordance with the
16 credentialing system developed and implemented
17 under subsection (a).

18 “(e) NONDUPLICATION OF EFFORTS.—

19 “(1) IN GENERAL.—To the extent that prior to
20 the deadline described in subsection (a)(1), the Serv-
21 ice has begun implementing or has completed imple-
22 mentation of a medical credentialing system that
23 otherwise meets the requirements of this section, the
24 Service shall not be required to establish a new
25 credentialing system under this section.

1 ‘‘(2) AUTHORITY.—The Service may expand or
2 enhance an existing credentialing system to meet the
3 requirements of this section.

4 ‘‘(3) REVIEW.—

5 ‘‘(A) IN GENERAL.—Not less frequently
6 than once every 5 years, the Service shall—

7 ‘‘(i) undertake a formal review of the
8 credentialing system in effect on the date
9 of the review; and

10 ‘‘(ii) if necessary, take action to bring
11 the credentialing system into compliance
12 with the requirements of this section.

13 ‘‘(B) CONSULTATION.—Each formal review
14 conducted under subparagraph (A) shall be sub-
15 ject to the consultation requirements under sub-
16 section (c).

17 ‘‘(f) EFFECT.—Nothing in this section—

18 ‘‘(1) negatively impacts the right of an Indian
19 tribe to enter into a compact or contract under the
20 Indian Self-Determination and Education Assistance
21 Act (25 U.S.C. 5301 et seq.); or

22 ‘‘(2) applies to such a compact or contract un-
23 less expressly agreed to by the Indian tribe.’’.

1 **SEC. 103. LIABILITY PROTECTIONS FOR HEALTH PROFES-**
2 **SIONAL VOLUNTEERS AT INDIAN HEALTH**
3 **SERVICE.**

4 Section 224 of the Public Health Service Act (42
5 U.S.C. 233) is amended by adding at the end the fol-
6 lowing:

7 ‘‘(r) CERTAIN INDIAN HEALTH SERVICE VOLUN-
8 TEERS DEEMED PUBLIC HEALTH SERVICE EMPLOY-
9 EES.—

10 ‘‘(1) IN GENERAL.—For purposes of this sec-
11 tion, a health professional volunteer at a Service
12 unit shall, in providing a health service to an indi-
13 vidual, be deemed to be an employee of the Public
14 Health Service for a calendar year that begins dur-
15 ing a fiscal year for which a transfer was made
16 under paragraph (4)(C). The preceding sentence is
17 subject to the provisions of this subsection.

18 ‘‘(2) CONDITIONS.—In providing a health serv-
19 ice to an individual, a health care practitioner shall,
20 for purposes of this subsection, be considered to be
21 a health professional volunteer at a Service unit if
22 all of the following conditions are met:

23 ‘‘(A) The service is provided to the indi-
24 vidual at the facilities of a Service unit, or
25 through offsite programs or events carried out
26 by the Service unit.

1 "(B) The Service unit is sponsoring the
2 health care practitioner pursuant to paragraph
3 (3)(C).
4 "(C) The health care practitioner does not
5 receive any compensation for the service from
6 the individual, the Service unit, or any third-
7 party payer (including reimbursement under
8 any insurance policy or health plan, or under
9 any Federal or State health benefits program),
10 except that the health care practitioner may re-
11 ceive repayment from the Service unit for rea-
12 sonable expenses incurred by the health care
13 practitioner in the provision of the service to
14 the individual.
15 "(D) Before the service is provided, the
16 health care practitioner or the Service unit
17 posts a clear and conspicuous notice at the site
18 where the service is provided of the extent to
19 which the legal liability of the health care prac-
20 titioner is limited under this subsection.
21 "(E) At the time the service is provided,
22 the health care practitioner is licensed, certified,
23 credentialed, and privileged in accordance with
24 Service policy and applicable law regarding the
25 provision of the service.

1 “(3) APPLICABILITY.—Subsection (g) (other
2 than paragraphs (3) and (5)) and subsections (h),
3 (i), and (l) apply to a health care practitioner at a
4 Service unit for purposes of this subsection to the
5 same extent and in the same manner as such sub-
6 sections apply to an officer, governing board mem-
7 ber, employee, or contractor of an entity described in
8 subsection (g)(4), subject to paragraph (4) and sub-
9 ject to the following subparagraphs:

10 “(A) Each reference to an entity in sub-
11 sections (g), (h), (i), and (l) shall be considered
12 to be a reference to a Service unit.

13 “(B) The first sentence of paragraph (1)
14 applies in lieu of the first sentence of subsection
15 (g)(1)(A).

16 “(C) With respect to a Service unit, a
17 health care practitioner is not a health profes-
18 sional volunteer at the Service unit unless the
19 Service unit sponsors the health care practi-
20 tioner. For purposes of this subsection, the
21 Service unit shall be considered to be spon-
22 soring the health care practitioner if—

23 “(i) with respect to the health care
24 practitioner, the Service unit submits to

1 the Secretary an application meeting the
2 requirements of subsection (g)(1)(D); and
3 "(ii) the Secretary, pursuant to sub-
4 section (g)(1)(E), determines that the
5 health care practitioner is deemed to be an
6 employee of the Public Health Service.
7 "(D) In the case of a health care practi-
8 tioner who is determined by the Secretary pur-
9 suant to this subsection and subsection
10 (g)(1)(E) to be a health professional volunteer,
11 this subsection applies to the health care practi-
12 tioner (with respect to services performed on
13 behalf of the Service unit sponsoring the health
14 care practitioner pursuant to subparagraph (C))
15 for any cause of action arising from an act or
16 omission of the health care practitioner occur-
17 ring on or after the date on which the Secretary
18 makes that determination.
19 "(E) Subsection (g)(1)(F) applies to a
20 health care practitioner for purposes of this
21 subsection only to the extent that, in providing
22 health services to an individual, each of the con-
23 ditions described in paragraph (2) is met.
24 "(4) FUNDING.—

1 "(A) IN GENERAL.—Amounts in the fund
2 established under subsection (k)(2) shall be
3 available for transfer under subparagraph (C)
4 for purposes of carrying out this subsection.
5 "(B) ANNUAL ESTIMATES.—
6 "(i) IN GENERAL.—Not later than
7 May 1 of each fiscal year, the Attorney
8 General, in consultation with the Sec-
9 retary, shall submit to Congress a report
10 providing an estimate of the amount of
11 claims (together with related fees and ex-
12 penses of witnesses) that, by reason of the
13 acts or omissions of health professional
14 volunteers, will be paid pursuant to this
15 section during the calendar year that be-
16 gins in the following fiscal year.
17 "(ii) APPLICABILITY.—Subsection
18 (k)(1)(B) applies to the estimate under
19 clause (i) relating to health professional
20 volunteers to the same extent and in the
21 same manner as that subsection applies to
22 the estimate under that subsection relating
23 to officers, governing board members, em-
24 ployees, and contractors of entities de-
25 scribed in subsection (g)(4).

1 "(C) TRANSFERS.—Not later than Decem-
2 ber 31 of each fiscal year, the Secretary shall
3 transfer from the fund under subsection (k)(2)
4 to the appropriate accounts in the Treasury an
5 amount equal to the estimate made under sub-
6 paragraph (B) for the calendar year beginning
7 in that fiscal year, subject to the extent of
8 amounts in the fund.
9 "(5) DEFINITION OF SERVICE UNIT.—
10 "(A) IN GENERAL.—In this subsection, the
11 term 'Service unit' has the meaning given the
12 term in section 4 of the Indian Health Care Im-
13 provement Act (25 U.S.C. 1603).
14 "(B) INCLUSION.—In this subsection, the
15 term 'Service unit' includes an urban Indian or-
16 ganization with which the Indian Health Serv-
17 ice has entered into a contract with, or to which
18 the Indian Health Service has made a grant,
19 under title V of the Indian Health Care Im-
20 provement Act (25 U.S.C. 1651 et seq.).
21 "(6) EFFECT.—Nothing in this subsection—
22 "(A) negatively impacts the right of an In-
23 dian tribe to enter into a compact or contract
24 under the Indian Self-Determination and Edu-

1 cation Assistance Act (25 U.S.C. 5304 et seq.);
2 or
3 ''(B) applies to such a compact or contract
4 unless expressly agreed to by the Indian tribe.
5 ''(7) EFFECTIVE DATES.—
6 ''(A) IN GENERAL.—Except as provided in
7 subparagraph (B), this subsection shall take ef-
8 fect on October 1, 2022.
9 ''(B) REGULATIONS, APPLICATIONS, AND
10 REPORTS.—Effective on the date of the enact-
11 ment of the Restoring Accountability in the In-
12 dian Health Service Act of 2022, the Secretary
13 may—
14 ''(i) prescribe regulations for carrying
15 out this subsection; and
16 ''(ii) accept and consider applications
17 submitted under paragraph (3)(C)(i).''.
18 **SEC. 104. CLARIFICATION REGARDING ELIGIBILITY FOR IN-**
19 **DIAN HEALTH SERVICE LOAN REPAYMENT**
20 **PROGRAM.**
21 Section 108 of the Indian Health Care Improvement
22 Act (25 U.S.C. 1616a) is amended—
23 (1) in subsection (b)(1), by striking subpara-
24 graph (B) and inserting the following:
25 ''(B) have—

1 ''(i)(I) a degree in a health profession; and
2 ''(II) a license to practice a health profes-
3 sion in a State; or
4 ''(ii)(I) a master's degree in business ad-
5 ministration with an emphasis in health care
6 management (as defined by the Secretary),
7 health administration, hospital administration,
8 or public health; and
9 ''(II) a license or certification to practice
10 in the field of business administration, health
11 administration, hospital administration, or pub-
12 lic health in a State, if the Secretary deter-
13 mines the license or certification is necessary
14 for the Indian health program to which the in-
15 dividual will be assigned;'';
16 (2) in subsection (f)(1)(B), by striking clause
17 (iii) and inserting the following:
18 ''(iii) to serve for a time period (re-
19 ferred to in this section as the 'period of
20 obligated service') equal to—
21 ''(I) 2 years or such longer pe-
22 riod as the individual may agree to
23 serve in the full-time practice of the
24 individual's profession in an Indian
25 health program to which the indi-

1 vidual may be assigned by the Sec-
2 retary; or
3 ‘‘(II) 4 years or such longer pe-
4 riod as the individual may agree to
5 serve in the half-time practice of the
6 individual’s profession in an Indian
7 health program to which the indi-
8 vidual may be assigned by the Sec-
9 retary;’’; and
10 (3) in subsection (g)(2)—
11 (A) in subparagraph (B), by striking ‘‘(B)
12 Any arrangement’’ and inserting the following:
13 ‘‘(C) DEADLINE FOR REPAYMENTS.—Any
14 arrangement’’;
15 (B) subparagraph (A), in the second sen-
16 tence of the matter preceding clause (i), by
17 striking ‘‘In making a determination’’ and in-
18 serting the following:
19 ‘‘(B) DETERMINATION OF AMOUNT OF
20 PAYMENT.—In making a determination under
21 this paragraph’’; and
22 (C) by striking ‘‘(2)(A) For each year’’
23 and all that follows through ‘‘paragraph (1).’’
24 and inserting the following:
25 ‘‘(2) AUTHORIZED PAYMENTS.—

1 “(A) AMOUNT OF PAYMENT.—
2 “(i) FULL-TIME PRACTICE.—In the
3 case of an individual who contracts to
4 serve a period of obligated service under
5 subsection (f)(1)(B)(iii)(I), for each year of
6 the obligated service, the Secretary may
7 pay up to $35,000 (or an amount equal to
8 the amount specified in section
9 338B(g)(2)(A) of the Public Health Serv-
10 ice Act (42 U.S.C. 254l–1(g)(2)(A))) on
11 behalf of the individual for loans described
12 in paragraph (1).
13 “(ii) HALF-TIME.—In the case of an
14 individual who contracts to serve a period
15 of obligated service under subsection
16 (f)(1)(B)(iii)(II), for each year of such ob-
17 ligated service, the Secretary may pay up
18 to $17,500 on behalf of the individual for
19 loans described in paragraph (1).”.

20 **SEC. 105. IMPROVEMENTS IN HIRING PRACTICES.**

21 (a) IN GENERAL.—Title VI of the Indian Health
22 Care Improvement Act (25 U.S.C. 1661 et seq.) is amend-
23 ed by adding at the end the following:

1 **"SEC. 605. IMPROVEMENTS IN HIRING PRACTICES.**

2 ''(a) DIRECT HIRE AUTHORITY.—The Secretary may
3 appoint, without regard to subchapter I of chapter 33 of
4 title 5, United States Code (other than sections 3303 and
5 3328 of that title), a candidate directly to a position with-
6 in the Service for which the candidate meets the qualifica-
7 tions standard established by the Office of Personnel Man-
8 agement.

9 ''(b) TRIBAL NOTIFICATION.—

10 ''(1) IN GENERAL.—Before appointing, hiring,
11 promoting, transferring, or reassigning a candidate
12 to a Senior Executive Service position or the position
13 of a manager at an Area office or Service unit, the
14 Secretary shall provide notice to each Indian tribe
15 located within the defined geographic area of the
16 Area office or Service unit, as applicable, of the con-
17 tent of an inclusion in an employment record.

18 ''(2) COMMENT PERIOD.—Each Indian tribe
19 that receives notification under paragraph (1) may
20 submit to the Secretary comments during the 10-day
21 period after the date of notification.''.

22 (b) IHS WAIVERS.—Section 2(c) of Public Law 96–
23 135 (25 U.S.C. 5117(c)) is amended—

24 (1) in paragraph (2)—

25 (A) by striking ''(2) The provisions'' and
26 inserting the following:

1 "(2) APPLICATION TO CERTAIN INDIVIDUALS.—
2 The provisions";
3 (B) by inserting "or (3)" after "paragraph
4 (1)"; and
5 (C) by striking "section 1131(f) of the
6 Education Amendments of 1978 (25 U.S.C.
7 2011(f); 92 Stat. 2324)" and inserting "section
8 1132(f) of the Education Amendments of 1978
9 (25 U.S.C. 2012(f))";
10 (2) by striking "(c)(1) Notwithstanding" and
11 inserting the following:
12 "(c) WAIVER OF APPLICABILITY IN PERSONNEL AC-
13 TIONS.—
14 "(1) IN GENERAL.—Notwithstanding"; and
15 (3) by adding at the end the following:
16 "(3) IHS WAIVERS.—
17 "(A) IN GENERAL.—At the request of a
18 concerned Indian tribe, the Secretary of Health
19 and Human Services may seek from each In-
20 dian tribe concerned a waiver of Indian pref-
21 erence laws for a personnel action that is with
22 respect to—
23 "(i) a Service unit (as defined in sec-
24 tion 4 of the Indian Health Care Improve-
25 ment Act (25 U.S.C. 1603)) in which—

1 "(I) 15 percent or greater of the
2 total positions are not filled by a full-
3 time employee of the Indian Health
4 Service for a period of 6 months or
5 longer; or
6 "(II) 15 percent or greater of a
7 specific health professional position
8 are not filled by a full-time employee
9 of the Indian Health Service for a pe-
10 riod of 6 months or longer; or
11 "(ii) a former employee of the Indian
12 Health Service, or a former Tribal em-
13 ployee, who was removed from the employ-
14 ment during, or demoted for performance
15 or misconduct that occurred during, the 5-
16 year period following the date of the per-
17 sonnel action.
18 "(B) LIMITATION.—A waiver may only be
19 requested under subparagraph (A) for a per-
20 sonnel action that is with respect to an em-
21 ployee described in clause (ii) of that subpara-
22 graph if the reason for the removal or demotion
23 of the employee did not result from an action
24 undertaken by the employee that was reported
25 to the National Practitioner Data Bank.

1 "(C) RESTRICTION.—The Secretary of
2 Health and Human Services may only approve
3 a waiver under subparagraph (A) if the waiver
4 is first requested by a concerned Indian tribe.".

5 **SEC. 106. IMPROVED AUTHORITIES OF SECRETARY TO IM-**
6 **PROVE ACCOUNTABILITY OF SENIOR EXECU-**
7 **TIVES AND EMPLOYEES OF THE INDIAN**
8 **HEALTH SERVICE.**

9 (a) IN GENERAL.—Title VI of the Indian Health
10 Care Improvement Act (25 U.S.C. 1661 et seq.) (as
11 amended by section 105) is amended by adding at the end
12 the following:

13 **"SEC. 606. IMPROVED AUTHORITIES OF SECRETARY TO IM-**
14 **PROVE ACCOUNTABILITY OF SENIOR EXECU-**
15 **TIVES OF THE INDIAN HEALTH SERVICE.**

16 "(a) DEFINITIONS.—In this section:
17 "(1) COVERED INDIVIDUAL.—The term 'cov-
18 ered individual' means a career appointee (as de-
19 fined in section 3132(a) of title 5, United States
20 Code).
21 "(2) MISCONDUCT.—The term 'misconduct' in-
22 cludes—
23 "(A) neglect of duty;
24 "(B) malfeasance;

1 ''(C) failure to accept a directed reassign-
2 ment; and
3 ''(D) failure to accompany a position in a
4 transfer of function.
5 ''(3) SECRETARY.—The term 'Secretary' means
6 the Secretary, acting through the Service.
7 ''(4) SENIOR EXECUTIVE POSITION.—The term
8 'senior executive position' means a Senior Executive
9 Service position (as defined in section 3132(a) of
10 title 5, United States Code).
11 ''(b) AUTHORITY.—
12 ''(1) IN GENERAL.—The Secretary may, in ac-
13 cordance with this section, reprimand, suspend, in-
14 voluntarily reassign, demote, or remove a covered in-
15 dividual from a senior executive position at the Serv-
16 ice if the Secretary determines that the misconduct
17 or performance of the covered individual warrants
18 such an action.
19 ''(2) REMOVAL FROM CIVIL SERVICE.—If the
20 Secretary removes a covered individual pursuant to
21 paragraph (1), the Secretary may remove the indi-
22 vidual from the civil service (as defined in section
23 2101 of title 5, United States Code).
24 ''(c) RIGHTS AND PROCEDURES.—

1 "(1) IN GENERAL.—A covered individual who is
2 the subject of an action or removal, as applicable,
3 under subsection (b) is entitled—
4 "(A) to advance notice of the action or re-
5 moval;
6 "(B) to access a file containing all evidence
7 in support of the proposed action or removal;
8 "(C) to be represented by an attorney or
9 other representative of the covered individual's
10 choice; and
11 "(D) to grieve the decision on the action or
12 removal under paragraph (2) in accordance
13 with the internal grievance process established
14 by the Secretary under paragraph (3).
15 "(2) NOTICE; RESPONSE; DECISION.—
16 "(A) IN GENERAL.—The aggregate period
17 for notice, response, and decision on an action
18 or removal under subsection (b) may not exceed
19 15 business days.
20 "(B) RESPONSE.—A covered individual re-
21 ceiving a notice under paragraph (1)(A) of an
22 action or removal, as applicable, under sub-
23 section (b) shall have not more than 7 business
24 days to respond to the notice.
25 "(C) DECISION.—

1 "(i) IN GENERAL.—The Secretary
2 shall issue a decision on an action or re-
3 moval, as applicable, under subsection (b)
4 not later than 15 business days after the
5 date on which notice of the action or re-
6 moval, as applicable, is received by the ap-
7 plicable covered individual under para-
8 graph (1)(A).
9 "(ii) REQUIREMENTS.—A decision
10 under clause (i)—
11 "(I) shall be in writing; and
12 "(II) shall include the specific
13 reasons for the decision.
14 "(D) FINAL AND CONCLUSIVE DECISION.—
15 A decision under this paragraph that is not
16 grieved under paragraph (3) by the deadline de-
17 scribed in that paragraph shall be final and
18 conclusive.
19 "(3) GRIEVANCE PROCESS.—
20 "(A) IN GENERAL.—The Secretary shall
21 establish an internal grievance process under
22 which a covered individual may grieve a deci-
23 sion issued under paragraph (2) not later than
24 the date that is 7 business days after the date

1 on which the decision under that paragraph was
2 issued.
3 ''(B) TOTAL PERIOD.—The Secretary shall
4 issue a decision for which an internal grievance
5 process is initiated under subparagraph (A) not
6 later than 21 business days after the date on
7 which the grievance process is initiated by the
8 covered individual.
9 ''(C) FINAL AND CONCLUSIVE DECISION.—
10 A grievance decision under this paragraph shall
11 be final and conclusive.
12 ''(4) JUDICIAL REVIEW.—A covered individual
13 adversely affected by a decision under paragraph (2)
14 that is not grieved, or by a grievance decision under
15 paragraph (3), may obtain judicial review of the de-
16 cision.
17 ''(5) COURT REVIEW.—In any case in which ju-
18 dicial review is sought under paragraph (4), the
19 court shall review the record and may set aside any
20 action of the Department or the Service found to
21 be—
22 ''(A) arbitrary, capricious, an abuse of dis-
23 cretion, or otherwise not in accordance with a
24 provision of law;

1 "(B) obtained without procedures required
2 by a provision of law having been followed; or
3 "(C) unsupported by substantial evidence.
4 "(d) RELATION TO OTHER PROVISIONS OF LAW.—
5 Section 3592(b)(1) of title 5, United States Code, shall
6 not apply to an action under subsection (b).

7 **"SEC. 607. IMPROVED AUTHORITIES OF SECRETARY TO IM-**
8 **PROVE ACCOUNTABILITY OF EMPLOYEES OF**
9 **THE INDIAN HEALTH SERVICE.**

10 "(a) DEFINITIONS.—In this section:
11 "(1) COVERED INDIVIDUAL.—
12 "(A) IN GENERAL.—The term 'covered in-
13 dividual' means an individual occupying a posi-
14 tion at the Service.
15 "(B) EXCLUSIONS.—The term 'covered in-
16 dividual' does not include—
17 "(i) an individual occupying a senior
18 executive position (as defined in section
19 606(a));
20 "(ii) an individual who has not com-
21 pleted a probationary or trial period; or
22 "(iii) a political appointee.
23 "(2) GRADE.—The term 'grade' has the mean-
24 ing given the term in section 7511(a) of title 5,
25 United States Code.

1 ‘‘(3) MISCONDUCT.—The term ‘misconduct’ in-
2 cludes—
3 ‘‘(A) neglect of duty;
4 ‘‘(B) malfeasance;
5 ‘‘(C) failure to accept a directed reassign-
6 ment; and
7 ‘‘(D) failure to accompany a position in a
8 transfer of function.
9 ‘‘(4) POLITICAL APPOINTEE.—The term ‘polit-
10 ical appointee’ means an individual who is—
11 ‘‘(A) employed in a position described in
12 any of sections 5312 through 5316 of title 5,
13 United States Code (relating to the Executive
14 Schedule);
15 ‘‘(B) a limited term appointee, limited
16 emergency appointee, or noncareer appointee
17 (as those terms are defined in section 3132(a)
18 of title 5, United States Code); or
19 ‘‘(C) employed in a position of a confiden-
20 tial or policy-determining character under
21 schedule C of subpart C of part 213 of title 5,
22 Code of Federal Regulations (or a successor
23 regulation).
24 ‘‘(5) SECRETARY.—The term ‘Secretary’ means
25 the Secretary, acting through the Service.

1 "(6) SUSPEND.—The term 'suspend' means the
2 placing of an employee, for disciplinary reasons, in
3 a temporary status without duties and pay for a pe-
4 riod in excess of 14 days.
5 "(b) AUTHORITY.—
6 "(1) IN GENERAL.—The Secretary may, in ac-
7 cordance with this section, remove, demote, or sus-
8 pend a covered individual from employment at the
9 Service if the Secretary determines that the perform-
10 ance or misconduct of the covered individual war-
11 rants such an action.
12 "(2) ACTIONS.—If the Secretary removes, de-
13 motes, or suspends a covered individual pursuant to
14 paragraph (1), the Secretary may—
15 "(A) remove the covered individual from
16 the civil service (as defined in section 2101 of
17 title 5, United States Code);
18 "(B) demote the covered individual by
19 means of—
20 "(i) a reduction in grade for which the
21 covered individual is qualified, as the Sec-
22 retary determines appropriate; and
23 "(ii) a reduction of the annual rate of
24 pay of the covered individual; or

1 "(C) suspend the covered individual from
2 the civil service (as defined in section 2101 of
3 title 5, United States Code).
4 "(c) PAY OF CERTAIN DEMOTED INDIVIDUALS.—
5 "(1) IN GENERAL.—Notwithstanding any other
6 provision of law, any covered individual subject to a
7 demotion by means of a reduction in grade under
8 subsection (b)(2)(B) shall, beginning on the date of
9 the demotion, receive the annual rate of pay applica-
10 ble to the reduced grade.
11 "(2) RESTRICTIONS.—
12 "(A) PROHIBITION ON ADMINISTRATIVE
13 LEAVE.—A covered individual subject to a de-
14 motion under subsection (b)(2)(B)—
15 "(i) may not be placed on administra-
16 tive leave during the period during which
17 an appeal (if any) under this section is on-
18 going; and
19 "(ii) may only receive pay if the cov-
20 ered individual reports for duty or is ap-
21 proved to use accrued unused annual, sick,
22 family medical, military, or court leave.
23 "(B) RESTRICTION ON PAY AND BENE-
24 FITS.—If a covered individual subject to a de-
25 motion under subsection (b)(2)(B) does not re-

1 port for duty (and has not received approval to
2 use accrued unused leave under subparagraph
3 (A)(ii)), the covered individual shall not receive
4 pay or other benefits pursuant to subsection
5 (e)(7).

6 "(d) RIGHTS AND PROCEDURES.—

7 "(1) IN GENERAL.—A covered individual who is
8 the subject of an action or removal, as applicable,
9 under subsection (b) is entitled—

10 "(A) to advance notice of the action or re-
11 moval;

12 "(B) to access a file containing all evidence
13 in support of the proposed action or removal;

14 "(C) to be represented by an attorney or
15 other representative of the covered individual's
16 choice; and

17 "(D) to grieve the decision on the action or
18 removal under paragraph (2) in accordance
19 with the internal grievance process established
20 by the Secretary under paragraph (3).

21 "(2) NOTICE; RESPONSE; DECISION.—

22 "(A) AGGREGATE PERIOD.—The aggregate
23 period for notice, response, and a final decision
24 on an action under subsection (b) may not ex-
25 ceed 15 business days.

1 "(B) RESPONSE.—A covered individual re-
2 ceiving a notice under paragraph (1)(A) of an
3 action or removal under subsection (b) shall
4 have not more than 7 business days to respond
5 to the notice.

6 "(C) FINAL AND CONCLUSIVE DECISION.—

7 "(i) IN GENERAL.—The Secretary
8 shall issue a final and conclusive decision
9 on an action or removal under subsection
10 (b) not later than 15 business days after
11 the date on which the notice of the action
12 is received by the applicable covered indi-
13 vidual under paragraph (1)(A).

14 "(ii) REQUIREMENTS.—A decision
15 under clause (i)—

16 "(I) shall be in writing; and

17 "(II) shall include the specific
18 reasons for the decision.

19 "(3) GRIEVANCE PROCESS.—

20 "(A) IN GENERAL.—The Secretary shall
21 establish an internal grievance process under
22 which a covered individual may grieve a deci-
23 sion issued under paragraph (2) not later than
24 the date that is 7 business days after the date

on which the decision under that paragraph was issued.

"(B) TOTAL PERIOD.—The Secretary shall issue a decision for which an internal grievance process is initiated under subparagraph (A) not later than 21 business days after the date on which the grievance process is initiated by the covered individual.

"(C) FINAL AND CONCLUSIVE DECISION.—A grievance decision under this paragraph shall be final and conclusive.

"(4) PROCEDURES SUPERSEDING CBAS.—The procedures under this subsection shall supersede any collective bargaining agreement to the extent that such an agreement is inconsistent with the procedures.

"(5) PERFORMANCE APPRAISAL.—The procedures under chapter 43 of title 5, United States Code, shall not apply to an action under subsection (b).

"(6) APPEAL TO MERIT SYSTEMS PROTECTION BOARD.—

"(A) IN GENERAL.—Subject to subparagraph (B) and subsection (e), any removal, demotion, or suspension of more than 14 days

1 under subsection (b) may be appealed to the
2 Merit Systems Protection Board, which shall
3 refer such appeal to an administrative law
4 judge pursuant to section 7701(b)(1) of title 5,
5 United States Code.

6 ''(B) TIME PERIOD.—An appeal under
7 subparagraph (A) of a removal, demotion, or
8 suspension may only be made if the appeal is
9 made not later than 10 business days after the
10 date of the removal, demotion, or suspension.

11 ''(e) EXPEDITED REVIEW.—

12 ''(1) IN GENERAL.—On receipt of an appeal
13 under subsection (d)(6)(A), the applicable adminis-
14 trative law judge shall—

15 ''(A) expedite the appeal under section
16 7701(b)(1) of title 5, United States Code; and

17 ''(B) issue a final and complete decision on
18 the appeal not later than 180 days after the
19 date of the appeal.

20 ''(2) UPHOLDING DECISION.—

21 ''(A) IN GENERAL.—Notwithstanding sec-
22 tion 7701(c)(1)(B) of title 5, United States
23 Code, the administrative law judge shall uphold
24 the decision of the Secretary to remove, demote,
25 or suspend an employee under subsection (b) if

1 the decision is supported by substantial evi-
2 dence.
3 "(B) PROHIBITION OF MITIGATION.—Not-
4 withstanding title 5, United States Code, or any
5 other provision of law, if the decision of the
6 Secretary to remove, demote, or suspend an em-
7 ployee under subsection (b) is supported by
8 substantial evidence, the administrative law
9 judge shall not mitigate the penalty prescribed
10 by the Secretary.
11 "(3) APPEAL TO MERIT SYSTEMS PROTECTION
12 BOARD.—
13 "(A) IN GENERAL.—The decision of the
14 administrative law judge under paragraph (1)
15 may be appealed to the Merit Systems Protec-
16 tion Board.
17 "(B) UPHOLDING DECISION.—Notwith-
18 standing section 7701(c)(1)(B) of title 5,
19 United States Code, the Merit Systems Protec-
20 tion Board shall uphold the decision of the Sec-
21 retary to remove, demote, or suspend an em-
22 ployee under subsection (b) if the decision is
23 supported by substantial evidence.
24 "(C) PROHIBITION OF MITIGATION.—Not-
25 withstanding title 5, United States Code, or any

1 other provision of law, if the decision of the
2 Secretary is supported by substantial evidence,
3 the Merit Systems Protection Board shall not
4 mitigate the penalty prescribed by the Sec-
5 retary.

6 "(4) REPORT.—In any case in which an admin-
7 istrative law judge cannot issue a final and complete
8 decision by the deadline described in paragraph
9 (1)(B), the Merit Systems Protection Board shall,
10 not later than 14 business days after the deadline
11 expires, submit to the appropriate committees of
12 Congress a report that explains the reasons why a
13 decision was not issued by the deadline.

14 "(5) APPEAL.—A decision of the Merit Systems
15 Protection Board under paragraph (3) may be ap-
16 pealed to the United States Court of Appeals for the
17 Federal Circuit pursuant to section 7703 of title 5,
18 United States Code, or to any court of appeals of
19 competent jurisdiction pursuant to subsection
20 (b)(1)(B) of that section.

21 "(6) PROHIBITION AGAINST STAYS.—The Merit
22 Systems Protection Board may not stay any removal
23 or demotion under subsection (b), except as provided
24 in section 1214(b) of title 5, United States Code.

"(7) RESTRICTION ON PAY AND BENEFITS DURING APPEAL.—

"(A) IN GENERAL.—

"(i) RESTRICTION ON PAY AND BENEFITS.—During the period described in clause (ii), a covered individual may not receive any pay and benefits described in subparagraph (B).

"(ii) PERIOD DESCRIBED.—The period referred to in clause (i) is the period—

"(I) beginning on the date on which a covered individual appeals under this section a removal from the civil service under subsection (b)(2)(A); and

"(II) ending on the later of—

"(aa) the date on which the Merit Systems Protection Board issues a final decision on the appeal under paragraph (3); and

"(bb) the date on which the United States Court of Appeals for the Federal Circuit issues a

1 final decision on the appeal
2 under paragraph (5).
3 "(B) PAY AND BENEFITS DESCRIBED.—
4 The pay and benefits referred to in subpara-
5 graph (A)(i) are any pay, awards, bonuses, in-
6 centives, allowances, differentials, student loan
7 repayments, special payments, or benefits re-
8 lated to the employment of the individual by the
9 Service.
10 "(8) INFORMATION TO EXPEDITE APPEAL.—To
11 the maximum extent practicable, the Secretary shall
12 provide to the Merit Systems Protection Board such
13 information and assistance as may be necessary to
14 ensure an appeal under this subsection is expedited.
15 "(9) BACKPAY.—If an employee prevails on ap-
16 peal under this section, the employee shall be enti-
17 tled to backpay (as provided in section 5596 of title
18 5, United States Code).
19 "(10) APPLICABLE TIMELINES AND PROCE-
20 DURES.—If an employee who is subject to a collec-
21 tive bargaining agreement chooses to grieve an ac-
22 tion taken under this section through a grievance
23 procedure provided under the collective bargaining
24 agreement, the timelines and procedures described in
25 subsection (d) and this subsection shall apply.

1 "(f) ALLEGED PROHIBITED PERSONNEL PRAC-
2 TICE.—In the case of a covered individual seeking correc-
3 tive action (or on behalf of whom corrective action is
4 sought) from the Office of Special Counsel based on an
5 alleged prohibited personnel practice described in section
6 2302(b) of title 5, United States Code, the Secretary may
7 not remove, demote, or suspend the covered individual
8 under subsection (b) without the approval of the Special
9 Counsel under section 1214(f) of title 5, United States
10 Code.

11 "(g) TERMINATION OF INVESTIGATIONS BY OFFICE
12 OF SPECIAL COUNSEL.—

13 "(1) IN GENERAL.—Notwithstanding any other
14 provision of law, the Special Counsel established by
15 section 1211 of title 5, United States Code, may ter-
16 minate an investigation of a prohibited personnel
17 practice alleged by an employee or former employee
18 of the Service after the Special Counsel provides to
19 the employee or former employee a written state-
20 ment of the reasons for the termination of the inves-
21 tigation.

22 "(2) ADMISSIBILITY.—The statement described
23 in paragraph (1) may not be admissible as evidence
24 in any judicial or administrative proceeding without

1 the consent of the employee or former employee de-
2 scribed in paragraph (1).

3 ''(h) VACANCIES.—In the case of a covered individual
4 who is removed or demoted under subsection (b), to the
5 maximum extent practicable, the Secretary shall fill the
6 vacancy arising as a result of the removal or demotion.''.

7 (b) CONFORMING AMENDMENTS.—Section 4303(f) of
8 title 5, United States Code, is amended—

9 (1) in paragraph (3), by striking ''or'' at the
10 end;

11 (2) in paragraph (4), by striking the period at
12 the end and inserting '', or''; and

13 (3) by adding at the end the following:

14 ''(5) any removal or demotion under section
15 607 of the Indian Health Care Improvement Act.''.

16 (c) REPORT.—Not later than 18 months after the
17 date of enactment of this Act, the Secretary of Health and
18 Human Services or the Inspector General of the Depart-
19 ment of Health and Human Services, as appropriate, shall
20 submit to Congress a report that includes information
21 on—

22 (1) the number of employees of the Indian
23 Health Service who were removed, demoted, or sus-
24 pended during the 1-year period preceding the date
25 of enactment of this Act;

1 (2) the number of employees of the Indian
2 Health Service who were removed, demoted, or sus-
3 pended during the 1-year period beginning on the
4 date of enactment of this Act pursuant to the
5 amendments made by this section; and
6 (3) the appropriate details of any such remov-
7 als, demotions, and suspensions that lend necessary
8 context.

9 **SEC. 107. TRIBAL CULTURE AND HISTORY.**

10 Section 113 of the Indian Health Care Improvement
11 Act (25 U.S.C. 1616f) is amended—
12 (1) in subsection (a)—
13 (A) by striking ‘‘a program’’ and inserting
14 ‘‘an annual mandatory training program’’; and
15 (B) by striking ‘‘appropriate employees of
16 the Service’’ and inserting ‘‘employees of the
17 Service, locum tenens medical providers,
18 healthcare volunteers, and other contracted em-
19 ployees who work at Service hospitals or other
20 Service units and whose employment requires
21 regular direct patient access’’; and
22 (2) by adding at the end the following:
23 ‘‘(c) REQUIREMENT TO COMPLETE TRAINING PRO-
24 GRAM.—Notwithstanding any other provision of law, be-
25 ginning on the date of enactment of the Restoring Ac-

1 countability in the Indian Health Service Act of 2022,
2 each employee or provider described in subsection (a) who
3 enters into a contract with the Service shall, as a condition
4 of employment, annually participate in and complete the
5 program established under subsection (a).''.

6 **SEC. 108. STAFFING DEMONSTRATION PROGRAM.**

7 Title VIII of the Indian Health Care Improvement
8 Act (25 U.S.C. 1671 et seq.) is amended by adding at
9 the end the following:

10 **''SEC. 833. STAFFING DEMONSTRATION PROGRAM.**

11 ''(a) IN GENERAL.—Not later than 1 year after the
12 date of enactment of the Restoring Accountability in the
13 Indian Health Service Act of 2022, the Secretary, acting
14 through the Service (referred to in this section as the 'Sec-
15 retary'), shall establish a demonstration program (referred
16 to in this section as the 'demonstration program') under
17 which the Service may provide Service units with addi-
18 tional staffing resources, with the goal that the resources
19 become self-sustaining.

20 ''(b) SELECTION.—In selecting Service units for par-
21 ticipation in the demonstration program, the Secretary
22 shall consider whether a Service unit services an Indian
23 tribe that—

24 ''(1) has utilized or contributed substantial
25 Tribal funds to construct a health facility used by

1 the Service or identified in the master plan for the
2 Service unit;

3 "(2) is located in 1 or more States with Med-
4 icaid reimbursements plans or policies that will in-
5 crease the likelihood that the staffing resources pro-
6 vided will be self-sustaining; and

7 "(3) is operating a health facility described in
8 paragraph (1) under historical staffing ratios, as de-
9 termined by the Secretary, that have not been equal-
10 ized or updated by the Service or any other Service
11 program to reflect current staffing needs.

12 "(c) DURATION.—Staffing resources provided to a
13 Service unit under the demonstration program shall be
14 provided for a duration that the Secretary, in consultation
15 with the applicable Indian tribe, determines appropriate,
16 on the condition that each staffing position provided shall
17 be for a period of not less than 3 fiscal years.

18 "(d) EFFECT OF STAFFING AWARDS.—No staffing
19 resources provided under the demonstration program shall
20 reduce the recurring base funding for staffing for any In-
21 dian tribe or Service unit.

22 "(e) SUNSET.—The demonstration program estab-
23 lished under subsection (a) shall terminate on the date
24 that is 4 years after the date on which the demonstration
25 program is established.

1 "(f) REPORT.—Not later than 1 year after the date
2 on which the demonstration program terminates under
3 subsection (e), the Secretary shall submit to the Com-
4 mittee on Indian Affairs and the Committee on Health,
5 Education, Labor, and Pensions of the Senate and the
6 Committee on Natural Resources and the Committee on
7 Energy and Commerce of the House of Representatives
8 a report describing the demonstration program, including
9 information on—

10 "(1) whether the staffing resources provided
11 under the demonstration program resulted in addi-
12 tional revenue for the applicable Service unit suffi-
13 cient to maintain the staff on a permanent basis;

14 "(2) the levels to which the staffing resources
15 provided under the demonstration program reduced
16 the unmet staffing need for the applicable Service
17 unit; and

18 "(3) whether the demonstration program could
19 be deployed permanently to reduce unmet staffing
20 needs throughout the Service.".

21 **SEC. 109. RULE ESTABLISHING TRIBAL CONSULTATION**
22 **POLICY.**

23 Title VIII of the Indian Health Care Improvement
24 Act (25 U.S.C. 1671 et seq.) (as amended by section 108)
25 is amended by adding at the end the following:

1 **"SEC. 834. RULE ESTABLISHING TRIBAL CONSULTATION**
2 **POLICY.**

3 "(a) IN GENERAL.—Not later than December 31,
4 2023, the Secretary shall establish, and once every 5 years
5 thereafter, the Secretary shall update, after meaningful
6 consultation with representatives of affected Indian tribes,
7 a rule establishing a Tribal consultation policy for the
8 Service.

9 "(b) CONTENTS OF TRIBAL CONSULTATION POL-
10 ICY.—The policy established under the rule under sub-
11 section (a) shall—

12 "(1) update, and replace, the Tribal consulta-
13 tion policy established under Circular No. 2006–01
14 of the Service (or any successor policy); and

15 "(2) include—

16 "(A) a process for determining when and
17 how the Service will notify Indian tribes of the
18 availability of meaningful consultation;

19 "(B) a determination of which actions or
20 agency decisions by the Service will trigger a re-
21 quirement for meaningful consultation with In-
22 dian tribes; and

23 "(C) a determination of which actions con-
24 stitute meaningful consultation with Indian
25 tribes.".

1 **SEC. 110. TREATMENT OF CERTAIN HOSPITALS.**

2 The ‘‘Parallel Low-Volume Hospital Payment Adjust-
3 ment Regarding Hospitals Operated by the Indian Health
4 Services (IHS) or a Tribe’’ provisions described in the
5 final rule of the Centers for Medicare & Medicaid Services
6 entitled ‘‘Medicare Program; Hospital Inpatient Prospec-
7 tive Payment Systems for Acute Care Hospitals and the
8 Long-Term Care Hospital Prospective Payment System
9 and Policy Changes and Fiscal Year 2018 Rates; Quality
10 Reporting Requirements for Specific Providers; Medicare
11 and Medicaid Electronic Health Record (EHR) Incentive
12 Program Requirements for Eligible Hospitals, Critical Ac-
13 cess Hospitals, and Eligible Professionals; Provider-Based
14 Status of Indian Health Service and Tribal Facilities and
15 Organizations; Costs Reporting and Provider Require-
16 ments; Agreement Termination Notices’’ (82 Fed Reg.
17 37990; 38188–38189 (August 14, 2017)), shall apply with
18 respect to discharges occurring in fiscal year 2011 and
19 each fiscal year thereafter.

20 **SEC. 111. ENHANCING QUALITY OF CARE IN THE INDIAN**
21 **HEALTH SERVICE.**

22 (a) IHCIA DEFINITIONS.—In this section, the terms
23 ‘‘Area office’’, ‘‘Indian tribe’’, ‘‘Secretary’’, ‘‘Service’’,
24 ‘‘Service unit’’, ‘‘tribal organization’’, and ‘‘Urban Indian
25 organization’’ have the meanings given those terms in sec-

1 tion 4 of the Indian Health Care Improvement Act (25
2 U.S.C. 1603).

3 (b) BEST PRACTICES FOR GOVERNING BOARD AND
4 AREA OFFICE MEETINGS.—

5 (1) DEFINITION OF GOVERNING BOARD.—In
6 this subsection, the term ''governing board'' means
7 the governing board of the facility of a Service unit.

8 (2) IN GENERAL.—Not later than 1 year after
9 the date of enactment of this Act, the Secretary, in
10 consultation with Indian tribes, governing boards,
11 Area offices, Service units, and other stakeholders,
12 as determined appropriate by the Secretary, shall es-
13 tablish—

14 (A) in accordance with paragraph (3)(A),
15 best practices for governing boards; and

16 (B) in accordance with paragraph (3)(B),
17 best practices for Area offices.

18 (3) REQUIREMENTS.—

19 (A) GOVERNING BOARD BEST PRAC-
20 TICES.—The best practices for governing
21 boards established under paragraph (2)(A) shall
22 include provisions relating to—

23 (i) adequately monitoring the delivery
24 of care at the applicable facility managed
25 by the governing board;

1 (ii) ensuring ongoing facility compli-
2 ance with Federal health care program re-
3 quirements, including requirements of the
4 Service and the Centers for Medicare &
5 Medicaid Services;
6 (iii) handling, documenting, and re-
7 sponding to patient complaints;
8 (iv) documenting, addressing, and, if
9 applicable, reporting instances of profes-
10 sional misconduct by facility staff in ac-
11 cordance with applicable Federal and State
12 law;
13 (v) improving facility performance and
14 operations with respect to mandatory and
15 voluntary quality initiatives carried out by
16 the Service and the Centers for Medicare &
17 Medicaid Services; and
18 (vi) reporting requirements under
19 Federal law, including with respect to—
20 (I) the Government Performance
21 and Results Act of 1993 (Public Law
22 103–62; 107 Stat. 285), the GPRA
23 Modernization Act of 2010 (Public
24 Law 111–352; 124 Stat. 3866), and

1 the amendments made by those Acts;
2 and
3 (II) the applicable provisions of
4 titles XVIII and XIX of the Social Se-
5 curity Act (42 U.S.C. 1395 et seq.,
6 1396 et seq.).
7 (B) AREA OFFICE BEST PRACTICES.—The
8 best practices for Area offices established under
9 paragraph (2)(B) shall include provisions relat-
10 ing to—
11 (i) strategies for how to best monitor
12 governing board activities relating to the
13 oversight of—
14 (I) delivery and quality of patient
15 care;
16 (II) documenting and responding
17 to patient complaints and instances of
18 professional misconduct; and
19 (III) facility compliance with
20 Federal health care program require-
21 ments, including requirements of the
22 Service and the Centers for Medicare
23 & Medicaid Services; and
24 (ii) connecting governing boards, in-
25 cluding the applicable facilities of those

1 governing boards, to resources necessary
2 for enhancing patient outcomes and im-
3 proving facility performance, including
4 through the use of technical assistance.
5 (4) PUBLICATION.—The best practices estab-
6 lished under paragraph (2) shall be—
7 (A) reported to, in writing, as applicable,
8 all governing boards and Area offices; and
9 (B) incorporated into the Indian Health
10 Manual of the Service.
11 (c) REVIEW OF QUALITY AND PERFORMANCE MEAS-
12 URES.—
13 (1) REVIEW.—
14 (A) IN GENERAL.—Not later than 1 year
15 after the date of enactment of this Act, the Sec-
16 retary, in coordination with the Agency for
17 Healthcare Research and Quality, the National
18 Quality Forum, Indian tribes, practitioners and
19 administrators of the Service, and other quali-
20 fied experts, as determined appropriate by the
21 Secretary, shall undertake a review of the re-
22 ported quality and performance measures of
23 Service facilities conducted by the Secretary in
24 accordance with—

1 (i) section 306 of title 5, United
2 States Code;
3 (ii) section 1115(b) of title 31, United
4 States Code; and
5 (iii) any law (including regulations)
6 used in any mandatory or voluntary pro-
7 gram of the Centers for Medicare & Med-
8 icaid Services.
9 (B) REPORT.—Not later than 6 months
10 after the date on which the review required
11 under subparagraph (A) is completed, the Sec-
12 retary shall submit to Congress a report on the
13 details and findings of that review, which shall
14 include an assessment of—
15 (i) the suitability of measures used as
16 of the date of enactment of this Act for the
17 applicable Service facility, taking into con-
18 sideration the patient volume of the facil-
19 ity, the mix of patient cases at the facility,
20 the geographic location of the facility, and
21 medical professional shortage designations
22 at the facility, as determined by the Sec-
23 retary; and

(ii) the extent to which the performance and quality measures are outcome-based or process-based measures.

(2) ADOPTION.—Not later than 1 year after the date on which the report required under paragraph (1)(B) is submitted to Congress, the Service, in coordination with the Centers for Medicare & Medicaid Services, shall adopt, and assist Service facilities to adopt, to the extent practicable, more suitable, as compared to those quality and performance measures adopted prior to the submission of that report, quality and performance measures, including measures that are more outcome-based and process-based, in accordance with the factors described in paragraph (1)(B)(i).

(3) GAO REPORT.—Not later than 1 year after the date on which the report required under paragraph (1)(B) is submitted to Congress, the Comptroller General of the United States shall submit to Congress a report on challenges relating to quality measure and data collection in Service facilities, which shall include—

(A) barriers to the adoption of relevant performance and quality measures in Service facilities; and

1 (B) recommendations for how the Service,
2 other Federal agencies, and stakeholders can
3 assist Service facilities in adopting suitable
4 quality and performance measures.
5 (d) COMPLIANCE ASSISTANCE PROGRAM.—
6 (1) DEFINITIONS.—In this subsection:
7 (A) ADMINISTRATOR.—The term ''Admin-
8 istrator'' means the Administrator of the Cen-
9 ters for Medicare & Medicaid Services.
10 (B) ELIGIBLE FACILITY.—
11 (i) IN GENERAL.—The term ''eligible
12 facility'' means a facility operated by the
13 Service that—
14 (I) is an underperforming hos-
15 pital or outpatient facility; and
16 (II) is eligible for payments
17 under title XVIII of the Social Secu-
18 rity Act (42 U.S.C. 1395 et seq.).
19 (ii) INCLUSION.—The term ''eligible
20 facility'' includes a tribally operated facil-
21 ity, if that facility consents to participating
22 in the program.
23 (C) PROGRAM.—The term ''program''
24 means the compliance assistance program es-
25 tablished under paragraph (2).

1 (D) TRIBALLY OPERATED FACILITY.—The
2 term ''tribally operated facility'' means a facil-
3 ity operated by an Indian tribe, a tribal organi-
4 zation, or an Urban Indian organization that—
5 (i) is an underperforming hospital or
6 outpatient facility; and
7 (ii) is eligible for payments under title
8 XVIII of the Social Security Act (42
9 U.S.C. 1395 et seq.).
10 (2) ESTABLISHMENT OF PROGRAM.—Not later
11 than 1 year after the date of enactment of this Act,
12 the Secretary, in coordination with the Adminis-
13 trator and quality improvement organizations having
14 a contract with the Secretary under part B of title
15 XI of the Social Security Act (42 U.S.C. 1320c et
16 seq.), shall establish a compliance assistance pro-
17 gram for eligible facilities.
18 (3) METHODOLOGY.—The Secretary shall es-
19 tablish a methodology for determining which eligible
20 facilities shall participate in the program, which
21 shall take into account the following factors:
22 (A) The number and severity of facility de-
23 ficiencies with respect to applicable require-
24 ments under title XVIII of the Social Security
25 Act (42 U.S.C. 1395 et seq.).

1 (B) The history of provider misconduct or
2 patient harm at the facility.
3 (C) Whether there is high staff turnover at
4 the facility.
5 (D) Whether the facility has low perform-
6 ance on program quality measures, relative to
7 other facilities of the Service, in accordance
8 with reported quality and performance meas-
9 ures conducted by the Secretary in accordance
10 with—
11 (i) section 306 of title 5, United
12 States Code;
13 (ii) section 1115(b) of title 31, United
14 States Code; and
15 (iii) any law (including regulations)
16 used in any mandatory or voluntary pro-
17 gram of the Centers for Medicare & Med-
18 icaid Services.
19 (4) SELECTION OF FACILITIES.—
20 (A) IN GENERAL.—The Secretary, in co-
21 ordination with the Administrator, shall select
22 not less than 25 percent of the eligible facilities
23 to participate in the program using the method-
24 ology established under paragraph (3).
25 (B) PARTICIPATION.—

1 (i) IN GENERAL.—An eligible facility
2 selected to participate in the program
3 under subparagraph (A) shall be required
4 to participate in the program.
5 (ii) REQUIREMENT.—The Secretary
6 shall ensure that, at all times during the
7 period beginning on the date of establish-
8 ment of the program and the date on
9 which the program terminates under para-
10 graph (8), not less than 25 percent of eli-
11 gible facilities are participating in the pro-
12 gram.
13 (C) TERM OF PARTICIPATION.—
14 (i) IN GENERAL.—Subject to clause
15 (ii), an eligible facility selected to partici-
16 pate in the program under subparagraph
17 (A) shall participate in the program for a
18 period of 2 years.
19 (ii) WAIVER.—If the Secretary, in co-
20 ordination with the Administrator, certifies
21 that an eligible facility participating in the
22 program has improved on its performance
23 to a satisfactory level, as determined by
24 the Secretary, then the eligible facility does

1 not have to participate in the program for
2 the full 2-year period.
3 (D) PARTICIPATION LIMIT.—An eligible fa-
4 cility may participate in the program for more
5 than 1 2-year period.
6 (5) PROGRAM COMPONENTS.—The program
7 shall provide on-site consultation and educational
8 programming for eligible facilities to ensure those el-
9 igible facilities are—
10 (A) meeting Federal requirements of the
11 Service and any conditions of participation ap-
12 plicable under title XVIII of the Social Security
13 Act (42 U.S.C. 1395 et seq.); and
14 (B) satisfactorily implementing any quality
15 initiatives and programs established by the
16 Service or the Centers for Medicare & Medicaid
17 Services.
18 (6) ENFORCEMENT OR NONCOMPLIANCE AC-
19 TIONS.—
20 (A) IN GENERAL.—The program shall be
21 conducted independently of any enforcement ac-
22 tions under the Indian Health Care Improve-
23 ment Act (25 U.S.C. 1601 et seq.) or non-
24 compliance actions taken by the Administrator
25 with respect to noncompliance with conditions

1 of participation applicable under title XVIII of
2 the Social Security Act (42 U.S.C. 1395 et
3 seq.), unless, while carrying out the program,
4 the Secretary or the Administrator, as applica-
5 ble, encounters a triggering event, as deter-
6 mined by the Secretary or the Administrator, as
7 applicable, that would necessitate an enforce-
8 ment action or noncompliance action.

9 (B) TRIGGERING EVENT ENCOUNTERED.—
10 If a triggering event is encountered by the Sec-
11 retary or Administrator under subparagraph
12 (A), the eligible facility shall continue to partici-
13 pate in the program so long as the facility—

14 (i) remains eligible for payments
15 under title XVIII of the Social Security
16 Act (42 U.S.C. 1395 et seq.); and

17 (ii) continues to meet all of the condi-
18 tions and requirements for such payments
19 which are applicable under such title.

20 (7) IMPLEMENTATION.—The Secretary shall
21 carry out the program in coordination with quality
22 improvement organizations having a contract with
23 the Secretary under part B of title XI of the Social
24 Security Act (42 U.S.C. 1320c et seq.).

1 (8) SUNSET.—The program shall terminate 6
2 years after the date on which the program is estab-
3 lished.
4 (9) REPORT.—Not later than 1 year after the
5 date on which the program terminates under para-
6 graph (8), the Comptroller General of the United
7 States shall submit to Congress a report evaluating
8 the effectiveness of the program, which shall include,
9 to the extent practicable—
10 (A) detailed data on changes in the patient
11 experience at eligible facilities that participated
12 in the program;
13 (B) a description of the compliance status
14 of eligible facilities that participated in the pro-
15 gram with requirements of the Service and any
16 conditions of participation applicable under title
17 XVIII of the Social Security Act (42 U.S.C.
18 1395 et seq.); and
19 (C) a description of the progress by eligible
20 facilities that participated in the program in
21 meeting the goals of quality improvement activi-
22 ties of the Department of Health and Human
23 Services.

1 **SEC. 112. NOTIFICATION OF INVESTIGATION REGARDING**
2 **PROFESSIONAL CONDUCT; SUBMISSION OF**
3 **RECORDS.**

4 Title VIII of the Indian Health Care Improvement
5 Act (25 U.S.C. 1671 et seq.) (as amended by section 109)
6 is amended by adding at the end the following:

7 **"SEC. 835. NOTIFICATION OF INVESTIGATION REGARDING**
8 **PROFESSIONAL CONDUCT; SUBMISSION OF**
9 **RECORDS.**

10 "(a) REPORT.—Not later than 14 calendar days after
11 the date on which the Service undertakes an investigation
12 into the professional conduct of a licensee of a State, the
13 Secretary, acting through the Service, shall notify the rel-
14 evant State medical board of the investigation.

15 "(b) SUBMISSION OF RECORDS.—Not later than 14
16 calendar days after the date on which the Service gen-
17 erates records relating to an investigation conducted by
18 the Service into the professional conduct of a licensee of
19 a State, the Secretary, acting through the Service, shall
20 provide the records to the relevant State medical board.".

21 **SEC. 113. MEDICAL CHAPERONES; OFFICE OF PATIENT AD-**
22 **VOCACY.**

23 (a) MEDICAL CHAPERONES.—Title II of the Indian
24 Health Care Improvement Act is amended by inserting
25 after section 223 (25 U.S.C. 1621v) the following:

1 **"SEC. 224. MEDICAL CHAPERONES.**

2 "(a) INDIAN HEALTH SERVICE.—

3 "(1) IN GENERAL.—The Secretary, acting
4 through the Service, shall, at the request of a pa-
5 tient of the Service, provide to the patient a medical
6 chaperone, to be present during any medical exam-
7 ination of the patient provided by or through the
8 Service.

9 "(2) REQUIREMENTS.—The Secretary, acting
10 through the Service, shall—

11 "(A) notify patients of the Service of the
12 right to have a medical chaperone present dur-
13 ing a medical examination provided by or
14 through the Service; and

15 "(B) ensure that the right described in
16 subparagraph (A) is provided to each patient in
17 each Service unit.

18 "(b) OTHER PROVIDERS OF SERVICES.—An Indian
19 tribe, tribal organization, or any other Indian health pro-
20 gram may use amounts made available under this Act to
21 provide, at the request of a patient to whom the Indian
22 tribe, tribal organization, or Indian health program is pro-
23 viding health care services, a medical chaperone to the pa-
24 tient, to be present during any medical examination of the
25 patient provided by the Indian tribe or tribal organiza-
26 tion.".

(b) INDIAN HEALTH SERVICE OFFICE OF PATIENT ADVOCACY.—Title VI of the Indian Health Care Improvement Act (25 U.S.C. 1661 et seq.) (as amended by section 106) is amended by adding at the end the following:

"SEC. 608. OFFICE OF PATIENT ADVOCACY.

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term 'Director' means the Director of the Office.

"(2) OFFICE.—The term 'Office' means the Office of Patient Advocacy established by subsection (b).

"(b) ESTABLISHMENT.—There is established within the Department an office, to be known as the 'Office of Patient Advocacy'.

"(c) DIRECTOR.—The Office shall be headed by a Director, who shall—

"(1) be appointed by the Secretary from among individuals qualified to perform the duties of the position; and

"(2) report directly to the Secretary.

"(d) DUTIES.—

"(1) IN GENERAL.—The Office shall carry out a patient advocacy program of the Service, under which the Office shall—

1 "(A) employ patient advocates to advocate
2 on behalf of Indians with respect to health care
3 services sought or received through the Service;
4 "(B) provide to those patient advocates
5 training to ensure the advocates carry out the
6 responsibilities described in paragraph (2); and
7 "(C) in as many prominent locations as
8 the Director determines to be appropriate to be
9 seen by the largest percentage of patients and
10 family members of patients at each Service
11 unit, display—
12 "(i) the purposes of the patient advo-
13 cacy program;
14 "(ii) the contact information for a pa-
15 tient advocate employed at the Service
16 unit; and
17 "(iii) a description of the rights and
18 responsibilities of patients and family
19 members of patients at the Service unit.
20 "(2) PATIENT ADVOCATE RESPONSIBILITIES.—
21 The responsibilities of a patient advocate employed
22 by the Office shall include the following:
23 "(A) Resolving any complaints by Indian
24 patients with respect to health care services

1 provided by or through the Service that cannot
2 be resolved at—
3 ''(i) the point of service; or
4 ''(ii) a higher level easily accessible to
5 the patient.
6 ''(B) Expressing to Indians their rights
7 and responsibilities as patients in receiving
8 health care services through the Service.
9 ''(C) Presenting at various meetings, and
10 to various committees, a description of any
11 issues experienced by Indians in receiving
12 health care services through the Service.
13 ''(D) Managing a patient advocate track-
14 ing system, if applicable.
15 ''(E) Compiling data relating to any com-
16 plaints made to the advocate by Indians with
17 respect to the receipt of health care services
18 through the Service, and the satisfaction of In-
19 dians with those services, to determine whether
20 there exist any trends in those data.
21 ''(F) Ensuring that a process exists for the
22 distribution of data compiled under subpara-
23 graph (E) to Indian health programs, appro-
24 priate leaders, committees, and service pro-
25 viders, and staff of the Service.

1 “(G) Identifying, not less frequently than
2 quarterly, opportunities for improvement in the
3 provision of health care services to Indians by
4 or through the Service, including based on com-
5 plaints by Indian patients or immediate family
6 members.

7 “(H) Ensuring that any significant com-
8 plaint by an Indian patient or family member
9 with respect to health care provided by or
10 through the Service is brought to the attention
11 of appropriate staff of the Service or Indian
12 health program for the purpose of assessing
13 whether further analysis of the problem is re-
14 quired at the Service, Service area, Service unit,
15 or Indian health program level.

16 “(I) Supporting any other patient advocacy
17 programs carried out by the Department.

18 “(J) Ensuring that all appeals and final
19 decisions with respect to the receipt of health
20 care services through the Service are entered
21 into a patient advocate tracking system of the
22 Office, if applicable.

23 “(K) Understanding all laws, directives,
24 and other rules relating to the rights and re-
25 sponsibilities of Indians in receiving health care

1 services through the Service, including the ap-
2 peals processes available to Indian patients and
3 immediate family members.

4 ''(L) Ensuring that Indians receiving be-
5 havioral health services under title VII (and any
6 surrogate decisionmakers for such Indians) are
7 aware of the right of Indians—

8 ''(i) to seek representation from sys-
9 tems established under section 103 of the
10 Protection and Advocacy for Mentally Ill
11 Individuals Act of 1986 (42 U.S.C.
12 10803);

13 ''(ii) to protect and advocate for the
14 rights of Indians experiencing behavioral
15 health issues; and

16 ''(iii) to investigate incidents of abuse
17 and neglect of Indians experiencing behav-
18 ioral health issues.

19 ''(M) Achieving compliance with any appli-
20 cable requirements established by the Secretary
21 with respect to the inspection of controlled sub-
22 stances (as defined in section 102 of the Con-
23 trolled Substances Act (21 U.S.C. 802)).

1 "(N) Documenting potentially threatening
2 behavior and reporting that behavior to the ap-
3 propriate authorities.

4 "(3) TRAINING.—The Director shall ensure
5 that the training provided to patient advocates
6 under paragraph (1)(B) is consistent throughout the
7 Office, including with respect to any mandatory
8 training or certification standards approved by the
9 Director.".

10 **SEC. 114. FITNESS OF HEALTH CARE PROVIDERS.**

11 (a) IN GENERAL.—Title VIII of the Indian Health
12 Care Improvement Act is amended by inserting after sec-
13 tion 802 (25 U.S.C. 1672) the following:

14 **"SEC. 803. FITNESS OF HEALTH CARE PROVIDERS.**

15 "(a) ADDITIONAL REQUIREMENTS FOR HIRING OF
16 HEALTH CARE PROVIDERS BY SERVICE.—As part of the
17 hiring process for each health care provider position at
18 the Service after the date of enactment of the Restoring
19 Accountability in the Indian Health Service Act of 2022,
20 the Director shall require from the medical board of each
21 State in which the health care provider has or had a med-
22 ical license—

23 "(1) information on any violation of the re-
24 quirements of the medical license of the health care
25 provider during the 20-year period ending on the

1 date on which the health care provider is being con-
2 sidered for a position at the Service; and

3 "(2) information on whether the health care
4 provider has entered into any settlement agreement
5 for a disciplinary charge relating to the practice of
6 medicine by the health care provider.

7 "(b) PROVISION OF INFORMATION ON SERVICE
8 HEALTH CARE PROVIDERS TO STATE MEDICAL
9 BOARDS.—Notwithstanding section 552a of title 5, United
10 States Code, with respect to each health care provider of
11 the Service who has violated a requirement of the medical
12 license of the health care provider, the Director shall pro-
13 vide to the medical board of each State in which the health
14 care provider is licensed detailed information with respect
15 to the violation, regardless of whether the medical board
16 has formally requested that information.".

17 (b) REPORT ON COMPLIANCE BY INDIAN HEALTH
18 SERVICE WITH REVIEWS OF HEALTH CARE PROVIDERS
19 LEAVING SERVICE OR TRANSFERRING TO OTHER FACILI-
20 TIES.—Not later than 180 days after the date of enact-
21 ment of this Act, the Director of the Indian Health Service
22 shall submit to the Committee on Indian Affairs of the
23 Senate and the Committee on Natural Resources of the
24 House of Representatives a report on the compliance by

1 the Indian Health Service with the policy of the Indian
2 Health Service—
3 (1) to conduct a review of each health care pro-
4 vider of the Indian Health Service who transfers to
5 another medical facility of the Indian Health Serv-
6 ice, resigns, retires, or is terminated to determine
7 whether there are any concerns, complaints, or alle-
8 gations of violations relating to the medical practice
9 of the health care provider; and
10 (2) to take appropriate action with respect to
11 any concern, complaint, or allegation described in
12 paragraph (1).

13 **SEC. 115. STANDARDS TO IMPROVE TIMELINESS OF CARE.**

14 Title IV of the Indian Health Care Improvement Act
15 (25 U.S.C. 1641 et seq.) is amended by adding at the end
16 the following:

17 **"SEC. 412. STANDARDS TO IMPROVE TIMELINESS OF CARE.**

18 "(a) REGULATIONS.—
19 "(1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of the Restoring Ac-
21 countability in the Indian Health Service Act of
22 2022, the Secretary, acting through the Service,
23 shall—

1 ‘‘(A) establish, by regulation, standards to
2 measure the timeliness of the provision of
3 health care services in Service facilities; and
4 ‘‘(B) provide such standards to each Serv-
5 ice unit.
6 ‘‘(2) DATA COLLECTION.—The Secretary, act-
7 ing through the Service, shall develop a process for
8 each Service unit to submit to the Secretary data
9 with respect to the standards established under
10 paragraph (1)(A).
11 ‘‘(b) ANNUAL REPORTS.—
12 ‘‘(1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of the Restoring Account-
14 ability in the Indian Health Service Act of 2022,
15 and annually thereafter, each Area office shall sub-
16 mit to the Secretary a report on the metrics re-
17 ported by Service units relating to the timeliness of
18 the provision of health care services in Service facili-
19 ties within each Service unit.
20 ‘‘(2) PUBLICATION.—The Secretary shall make
21 each report received under paragraph (1) publicly
22 available on the website of the Service.’’.

TITLE II—EMPLOYEE PROTECTIONS

SEC. 201. EMPLOYEE PROTECTIONS AGAINST RETALIATION.

(a) In General.—Title VI of the Indian Health Care Improvement Act (25 U.S.C. 1661 et seq.) (as amended by section 113(b)) is amended by adding at the end the following:

"SEC. 609. EMPLOYEE PROTECTIONS AGAINST RETALIATION.

"(a) Definitions.—In this section:

"(1) Information.—The term 'information' means information—

"(A) the disclosure of which is not specifically prohibited by law; and

"(B) that is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(2) Retaliation.—The term 'retaliation', with respect to a whistleblower, means—

"(A) an adverse employment action against the whistleblower;

1 ''(B) a significantly adverse action against
2 the whistleblower, such as the refusal or delay
3 of care provided through the Service; and
4 ''(C) an adverse action described in sub-
5 paragraph (A) or (B) against a family member
6 or friend of the whistleblower.
7 ''(3) WHISTLEBLOWER.—The term 'whistle-
8 blower' means an employee of the Service who dis-
9 closes information that the employee reasonably be-
10 lieves evidences—
11 ''(A) a violation of any law, rule, regula-
12 tion, or Service policy; or
13 ''(B) gross mismanagement, a gross waste
14 of funds, an abuse of authority, or a substantial
15 and specific danger to public health or safety.
16 ''(b) EMPLOYEE ACCOUNTABILITY.—
17 ''(1) DESIGNATED OFFICIAL.—The Secretary
18 shall designate an official in the Department who is
19 not an employee of the Service to receive reports
20 under paragraph (2).
21 ''(2) MANDATORY REPORTING.—An employee of
22 the Service who witnesses retaliation against a whis-
23 tleblower, a violation of a patient safety requirement,
24 or other similar conduct shall submit to the official

1 designated under paragraph (1) a report of the con-
2 duct.

3 "(3) OVERSIGHT.—Not later than 3 days after
4 the date on which the official designated under para-
5 graph (1) receives a report under paragraph (2), the
6 Secretary shall—

7 "(A) formally review the report; and

8 "(B) provide a copy of the report and any
9 other relevant information to the Inspector
10 General of the Department.

11 "(4) REMOVAL FOR WHISTLEBLOWER RETALIA-
12 TION.—

13 "(A) IN GENERAL.—The Secretary may re-
14 move for misconduct from the civil service (as
15 defined in section 2101 of title 5, United States
16 Code), in accordance with section 606 or 607,
17 as applicable, an employee of the Service if the
18 Secretary determines, after completing a review
19 described in paragraph (3), that the employee
20 has retaliated against a whistleblower and war-
21 rants removal for misconduct.

22 "(B) RETALIATION AS MISCONDUCT.—Re-
23 taliation by an employee against a whistle-
24 blower, as described in subparagraph (A), shall

be considered to be misconduct for purposes of sections 606 and 607.

"(5) ENHANCING PROTECTIONS FOR WHISTLEBLOWERS.—The Secretary shall carry out any actions determined necessary by the Secretary to enhance protection for whistleblowers, including identifying appropriate Service employees and requiring the employees to complete the Office of Special Counsel's Whistleblower Certification Program.".

SEC. 202. RIGHT OF FEDERAL EMPLOYEES TO PETITION CONGRESS.

(a) ADVERSE ACTION FOR VIOLATION OF RIGHT TO PETITION CONGRESS.—Section 7211 of title 5, United States Code, is amended—

(1) by striking "The right of" and inserting the following:

"(a) IN GENERAL.—The right of"; and

(2) by adding at the end the following:

"(b) ADVERSE ACTION.—An employee who interferes with or denies a right protected under subsection (a) shall be subject to any adverse action described in paragraphs (1) through (5) of section 7512, in accordance with the procedure described in section 7513 and any other applicable procedure.".

1 (b) ELECTRONIC NOTIFICATION OF RIGHT OF EM-
2 PLOYEES OF INDIAN HEALTH SERVICE.—
3 (1) IN GENERAL.—The Secretary of Health and
4 Human Services, acting through the Director of the
5 Indian Health Service (referred to in this subsection
6 as the "Secretary"), shall provide, in accordance
7 with paragraphs (2) through (5), to each employee
8 of the Indian Health Service notice of the right to
9 petition Congress under section 7211 of title 5,
10 United States Code.
11 (2) MEMORANDUM.—Not later than 30 days
12 after the date of enactment of this Act, the Sec-
13 retary shall submit to the Inspector General of the
14 Department of Health and Human Services (re-
15 ferred to in this subsection as the "Inspector Gen-
16 eral") a memorandum that includes the following
17 statement: "It is a violation of section 7211 of title
18 5, United States Code, for any Federal agency or
19 employee to require a Federal employee to seek ap-
20 proval, guidance, or any other form of input prior to
21 contacting Congress with information, even if that
22 information is in relation to the job responsibilities
23 of the employee. A Federal employee found to have
24 interfered with or denied the right of another Fed-
25 eral employee under such section shall be subject to

1 an adverse action described in any of paragraphs (1)
2 through (5) of section 7512 of title 5, United States
3 Code, including a suspension for more than 14 days
4 without pay.''.

5 (3) APPROVAL OR DISAPPROVAL.—

6 (A) IN GENERAL.—Not later than 30 days
7 after the date on which the memorandum is
8 submitted under paragraph (2), the Inspector
9 General shall approve or disapprove the memo-
10 randum.

11 (B) DISAPPROVAL.—If the Inspector Gen-
12 eral disapproves the memorandum, the Inspec-
13 tor General shall advise the Secretary on what
14 changes to the memorandum are necessary for
15 approval.

16 (4) NOTICE.—If the memorandum is approved
17 under paragraph (3), not later than 30 days after
18 the date of the approval, the Secretary shall—

19 (A) provide to each employee of the Indian
20 Health Service an electronic copy of the ap-
21 proved memorandum; and

22 (B) post the memorandum in a clear and
23 conspicuous place on the website of the Indian
24 Health Service.

25 (5) REVISED MEMORANDUM.—

1 (A) IN GENERAL.—If the memorandum is
2 disapproved under paragraph (3), not later
3 than 15 days after the date of disapproval, the
4 Secretary shall submit to the Inspector General
5 a revised memorandum that incorporates the
6 changes advised under subparagraph (B) of
7 that paragraph.

8 (B) APPROVAL OR DISAPPROVAL.—Not
9 later than 30 days after the date on which the
10 revised memorandum is submitted under sub-
11 paragraph (A), the Inspector General shall ap-
12 prove the revised memorandum.

13 (C) NOTICE.—Not later than 30 days after
14 the date on which a revised memorandum is ap-
15 proved under this paragraph, the Secretary
16 shall provide notice of the memorandum in ac-
17 cordance with paragraph (4).

18 **SEC. 203. FISCAL ACCOUNTABILITY.**

19 Title VI of the Indian Health Care Improvement Act
20 (25 U.S.C. 1661 et seq.) (as amended by section 201) is
21 amended by adding at the end the following:

22 **"SEC. 610. FISCAL ACCOUNTABILITY.**

23 "(a) MANAGEMENT OF FUNDS.—

24 "(1) IN GENERAL.—If the Secretary fails to
25 submit a professional housing plan under section

1 302(a) of the Restoring Accountability in the Indian
2 Health Service Act of 2022 or a staffing plan under
3 section 302(b) of that Act by the applicable dead-
4 line, the Secretary may not receive, obligate, trans-
5 fer, or expend any amounts for a salary increase or
6 bonus of an individual described in paragraph (2)
7 until the professional housing plan or staffing plan,
8 as applicable, is submitted.

9 ''(2) INDIVIDUAL DESCRIBED.—An individual
10 referred to in paragraph (1) is an individual em-
11 ployed in the Service—

12 ''(A) in a position that is—

13 ''(i) described in any of sections 5312
14 through 5316 of title 5, United States
15 Code;

16 ''(ii) placed in level IV or V of the Ex-
17 ecutive Schedule under section 5317 of
18 title 5, United States Code; or

19 ''(iii) described in section 213.3301 or
20 213.3302 of title 5, Code of Federal Regu-
21 lations (or a successor regulation); or

22 ''(B) as a limited term appointee, limited
23 emergency appointee, or noncareer appointee
24 (as those terms are defined in section 3132(a)
25 of title 5, United States Code).

1 "(b) PRIORITIZATION OF PATIENT CARE.—
2 "(1) IN GENERAL.—Notwithstanding any other
3 provision of law, the Secretary shall use amounts
4 available to the Service that are not obligated or ex-
5 pended, including base budget funding and third
6 party collections, during the fiscal year for which the
7 amounts are made available, and that remain avail-
8 able, only to support patient care by using the funds
9 for the costs of—
10 "(A) essential medical equipment;
11 "(B) purchased or referred care; or
12 "(C) staffing.
13 "(2) SPECIAL RULE.—In using amounts under
14 paragraph (1), the Secretary shall ensure that, in
15 any case where the amounts were originally made
16 available for a particular Service unit, the amounts
17 are used to benefit Indians served by that Service
18 unit.
19 "(3) HHS PLAN.—Each applicable fiscal year,
20 the Secretary, in consultation with Indian tribes,
21 shall establish a plan for distributing the amounts
22 described in paragraph (1) across the categories of
23 uses described in subparagraphs (A) through (C) of
24 that paragraph.

1 "(4) RESTRICTIONS.—The Secretary may not
2 use amounts described in paragraph (1)—
3 "(A) to remodel or interior decorate any
4 Area office; or
5 "(B) to increase the rate of pay of any em-
6 ployee of an Area office.
7 "(c) SPENDING REPORTS.—Not later than 90 days
8 after the end of each fiscal year, the Secretary shall sub-
9 mit a report describing the authorizations, expenditures,
10 outlays, transfers, reprogramming, and obligations of each
11 level of the Service, including the headquarters, each Area
12 office, each Service unit, and each health clinic or facility,
13 to—
14 "(1) each Indian tribe;
15 "(2) in the Senate—
16 "(A) the Committee on Indian Affairs;
17 "(B) the Committee on Health, Education,
18 Labor, and Pensions;
19 "(C) the Committee on Appropriations;
20 and
21 "(D) the Committee on the Budget; and
22 "(3) in the House of Representatives—
23 "(A) the Committee on Natural Resources;
24 "(B) the Committee on Energy and Com-
25 merce;

1 "(C) the Committee on Appropriations;
2 and
3 "(D) the Committee on the Budget.
4 "(d) STATUS REPORTS.—
5 "(1) IN GENERAL.—Subject to paragraph (2),
6 not later than 180 days after the end of each fiscal
7 year, the Secretary shall provide to each entity de-
8 scribed in paragraphs (1) through (3) of subsection
9 (c) a report describing the safety, billing, certifi-
10 cation, credential, and compliance statuses of each
11 facility managed, operated, or otherwise supported
12 by the Service.
13 "(2) UPDATES.—With respect to any change of
14 a status described in paragraph (1), the Secretary
15 shall immediately provide to each entity described in
16 paragraphs (1) through (3) of subsection (c) an up-
17 date describing the change.
18 "(e) EFFECT.—Nothing in this section—
19 "(1) negatively impacts the right of an Indian
20 tribe to enter into a compact or contract under the
21 Indian Self-Determination and Education Assistance
22 Act (25 U.S.C. 5301 et seq.); or
23 "(2) applies to such a compact or contract un-
24 less expressly agreed to by the Indian tribe.".

1 # TITLE III—REPORTS

2 **SEC. 301. DEFINITIONS.**

3 In this title:

4 (1) SECRETARY.—The term ''Secretary'' means
5 the Secretary of Health and Human Services.

6 (2) SERVICE.—The term ''Service'' means the
7 Indian Health Service.

8 (3) SERVICE UNIT.—The term ''Service unit''
9 has the meaning given the term in section 4 of the
10 Indian Health Care Improvement Act (25 U.S.C.
11 1603).

12 (4) TRIBAL HEALTH PROGRAM.—The term
13 ''tribal health program'' has the meaning given the
14 term in section 4 of the Indian Health Care Im-
15 provement Act (25 U.S.C. 1603).

16 **SEC. 302. REPORTS BY THE SECRETARY OF HEALTH AND**
17 **HUMAN SERVICES.**

18 (a) IHS PROFESSIONAL HOUSING PLAN.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this Act, the Secretary
21 shall develop, make publicly available, and submit to
22 Congress and the Comptroller General of the United
23 States a written plan to address the professional
24 housing needs of employees of the Service and em-
25 ployees of tribal health programs that comports with

1 the practices and recommendations of the Govern-
2 ment Accountability Office relating to professional
3 housing included in the most recent report of the
4 Government Accountability Office regarding Indian
5 Health Service housing needs.
6 (2) REQUIREMENT.—The plan under paragraph
7 (1) shall include, at a minimum, projections for the
8 professional housing needs for—
9 (A) the 1-year period following the date of
10 the plan;
11 (B) the 5-year period following the date of
12 the plan; and
13 (C) the 10-year period following the date
14 of the plan.
15 (b) PLAN RELATING TO IHS STAFFING NEEDS.—
16 (1) IN GENERAL.—Not later than 1 year after
17 the date on which the Government Accountability
18 Office releases the report described in subsection (a),
19 the Secretary shall develop, make publicly available,
20 and submit to Congress and the Comptroller General
21 of the United States a written plan to address the
22 staffing needs of the Service and tribal health pro-
23 grams that comports with the practices and rec-
24 ommendations of the Government Accountability Of-

1 fice relating to workforce planning included in the
2 report.
3 (2) REQUIREMENT.—The plan under paragraph
4 (1) shall include, at a minimum, projections for the
5 staffing needs for—
6 (A) the 1-year period following the date of
7 the plan;
8 (B) the 5-year period following the date of
9 the plan; and
10 (C) the 10-year period following the date
11 of the plan.
12 **SEC. 303. REPORTS BY THE COMPTROLLER GENERAL.**
13 (a) IHS HOUSING NEEDS REPORT.—Not later than
14 2 years after the date on which the Comptroller General
15 of the United States receives the professional housing plan
16 under section 302(a), the Comptroller General shall de-
17 velop and submit to Congress a report that includes—
18 (1) an assessment of the professional housing
19 plan;
20 (2) an evaluation of any existing, as of the date
21 of the report, assessments and projections for the
22 professional housing needs of employees of the Serv-
23 ice and employees of tribal health programs, includ-
24 ing a discussion and conclusions as to whether the
25 existing assessments and projections accurately re-

1 flect the professional housing needs of employees of
2 the Service and employees of tribal health programs;
3 and
4 (3) an assessment of the professional housing
5 needs of—
6 (A) employees of the Service for each Serv-
7 ice area (as defined in section 4 of the Indian
8 Health Care Improvement Act (25 U.S.C.
9 1603)); and
10 (B) employees of tribal health programs
11 for each Indian tribe, as applicable.
12 (b) IHS STAFFING NEEDS REPORT.—
13 (1) IN GENERAL.—Not later than 2 years after
14 the date on which the Comptroller General receives
15 the plan relating to IHS staffing needs under sec-
16 tion 302(b), the Comptroller General shall prepare
17 and submit to Congress a report on the staffing
18 needs of the Service and tribal health programs.
19 (2) CONTENTS.—The report under paragraph
20 (1) shall include—
21 (A) an assessment of the staffing plan re-
22 ferred to in paragraph (1);
23 (B) a description of—
24 (i) the number and type of full-time
25 positions needed at each facility of the

1 Service and at each tribal health program;
2 and
3 (ii) the amount of funds necessary to
4 maintain those positions;
5 (C) an explanation of the various meth-
6 odologies that the Service uses and has pre-
7 viously used to determine the number and type
8 of full-time positions needed at federally man-
9 aged Service units; and
10 (D) an assessment of the use of inde-
11 pendent contractors, including—
12 (i) the number of independent con-
13 tractors hired to fill vacant full-time posi-
14 tions; and
15 (ii) the amount of funds spent on
16 independent contractors who provide
17 health care services.
18 (c) WHISTLEBLOWER PROTECTIONS REPORT.—
19 (1) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this Act, the Comptroller
21 General shall develop and submit to Congress a re-
22 port on the efficacy of existing protections for whis-
23 tleblowers in the Service, including the protections
24 implemented pursuant to sections 201 and 202 and
25 the amendments made by those sections.

1 (2) CONTENTS.—The report under paragraph
2 (1) shall include—
3 (A) a discussion and conclusions as to
4 whether the Service has taken proper steps to
5 prevent retaliation against whistleblowers;
6 (B) if applicable, any recommendations for
7 changes to the policy of the Service with respect
8 to whistleblowers; and
9 (C) a discussion and conclusions as to
10 whether the official email accounts of employees
11 of the Service are appropriately monitored.

12 **SEC. 304. INSPECTOR GENERAL REPORTS.**

13 (a) PATIENT CARE REPORTS.—
14 (1) IN GENERAL.—Not later than 2 years after
15 the date of enactment of this Act, and not less fre-
16 quently than every 3 years thereafter, the Inspector
17 General of the Department of Health and Human
18 Services shall develop and submit to Congress and
19 the Service a report on—
20 (A) patient harm events and patient deaths
21 occurring in Service units;
22 (B) deferrals and denials of care of pa-
23 tients of the Service; and
24 (C) the standards to improve the timeli-
25 ness of care, developed in accordance with sec-

1 tion 412 of the Indian Health Care Improve-
2 ment Act (as added by section 115), and qual-
3 ity of care at Service facilities, including quality
4 and performance measures developed by the
5 Secretary in accordance with—

6 (i) section 306 of title 5, United
7 States Code;

8 (ii) section 1115(b) of title 31, United
9 States Code; and

10 (iii) any law (including regulations)
11 used in any mandatory or voluntary pro-
12 gram of the Centers for Medicare & Med-
13 icaid Services.

14 (2) CONTENTS.—The report under paragraph
15 (1) shall include—

16 (A) an evaluation of the number and kind
17 of events that contribute to patient deaths in a
18 Service unit and recommendations regarding re-
19 ducing the number of patient deaths;

20 (B) an evaluation of how the Service
21 tracks, reports, and responds to patient harm
22 events and patient deaths and recommendations
23 regarding how to improve the tracking, report-
24 ing, and response; and

1 (C) the effects of deferrals and denials of
2 care on patients of the Service, including pa-
3 tient outcomes, and recommendations regarding
4 how to reduce deferrals and denials of care.

5 (b) REPORTING SYSTEMS AUDIT.—Not later than 2
6 years after the date of enactment of this Act, the Inspector
7 General of the Department of Health and Human Services
8 shall—

9 (1) conduct an audit of reporting systems of the
10 Service, as of the date of enactment of this Act; and

11 (2) provide to the Service recommendations and
12 technical assistance regarding implementation of im-
13 proved reporting systems, procedures, standards,
14 and protocols.

15 **SEC. 305. TRANSPARENCY IN CMS SURVEYS.**

16 Section 1880 of the Social Security Act (42 U.S.C.
17 1395qq) is amended by adding at the end the following:

18 ''(g)(1) Not less frequently than once every 2 years,
19 the Administrator of the Centers for Medicare & Medicaid
20 Services shall conduct surveys of participating Indian
21 Health Service facilities to assess the compliance of each
22 hospital or skilled nursing facility of the Indian Health
23 Service with—

24 ''(A) section 1867; and

1 "(B) conditions of participation in the program
2 under this title.
3 "(2) Each survey completed under this subsection
4 shall be posted on the Internet website of the Centers for
5 Medicare & Medicaid Services. Such posting shall comply
6 with the Federal regulations concerning the privacy of in-
7 dividually identifiable health information promulgated
8 under section 264(c) of the Health Insurance Portability
9 and Accountability Act of 1996.".

10 TITLE IV—TECHNICAL
11 AMENDMENTS

12 **SEC. 401. TECHNICAL AMENDMENTS.**

13 (a) DEFINITIONS.—Section 4 of the Indian Health
14 Care Improvement Act (25 U.S.C. 1603) is amended—
15 (1) in paragraph (5), by striking the paragraph
16 designation and heading and all that follows through
17 "means" and inserting the following:
18 "(5) PURCHASED/REFERRED CARE.—The term
19 'purchased/referred care' means"; and
20 (2) by redesignating paragraph (5) and para-
21 graphs (6) through (15) as paragraph (15) and
22 paragraphs (5) through (14), respectively, and mov-
23 ing the paragraphs so as to appear in numerical
24 order.

1 (b) TECHNICAL AMENDMENTS.—The Indian Health
2 Care Improvement Act (25 U.S.C. 1601 et seq.) is amend-
3 ed—
4 (1) by striking ‘‘contract health service’’ each
5 place it appears (regardless of casing and typeface
6 and including in the headings) and inserting ‘‘pur-
7 chased/referred care’’ (with appropriate casing and
8 typeface); and
9 (2) by striking ‘‘contract health services’’ each
10 place it appears (regardless of casing and typeface
11 and including in the headings) and inserting ‘‘pur-
12 chased/referred care’’ (with appropriate casing and
13 typeface).

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