

**Calendar No. 272**

106<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 406**

[Report No. 106-152]

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**A BILL**

To amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

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SEPTEMBER 8, 1999

Reported with an amendment

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1<sup>ST</sup> SESSION**S. 406****[Report No. 106-152]**

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**IN THE SENATE OF THE UNITED STATES**

FEBRUARY 10, 1999

Mr. MURKOWSKI (for himself, Mr. LOTT, Mr. BAUCUS, Mr. INHOFE, Mr. COCHRAN, Mr. CAMPBELL, Mr. INOUE, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

SEPTEMBER 8, 1999

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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**A BILL**

To amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

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 “Alaska Native and  
5 American Indian Direct Reimbursement Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In 1988, Congress enacted section 405 of  
9 the Indian Health Care Improvement Act (25 U.S.C.  
10 1645) that established a demonstration program to  
11 authorize 4 tribally-operated Indian Health Service  
12 hospitals or clinics to test methods for direct billing  
13 and receipt of payment for health services provided  
14 to patients eligible for reimbursement under the  
15 medicare or medicaid programs under titles XVIII  
16 and XIX of the Social Security Act (42 U.S.C. 1395  
17 et seq.; 1396 et seq.); and other third-party payors.

18 (2) The 4 participants selected by the Indian  
19 Health Service for the demonstration program began  
20 the direct billing and collection program in fiscal  
21 year 1989 and unanimously expressed success and  
22 satisfaction with the program. Benefits of the pro-  
23 gram include dramatically increased collections for  
24 services provided under the medicare and medicaid  
25 programs; a significant reduction in the turn-around

1 time between billing and receipt of payments for  
2 services provided to eligible patients, and increased  
3 efficiency of participants being able to track their  
4 own billings and collections.

5 (3) The success of the demonstration program  
6 confirms that the direct involvement of tribes and  
7 tribal organizations in the direct billing of, and col-  
8 lection of payments from, the medicare and medicaid  
9 programs, and other third payor reimbursements, is  
10 more beneficial to Indian tribes than the current  
11 system of Indian Health Service-managed collec-  
12 tions.

13 (4) Allowing tribes and tribal organizations to  
14 directly manage their medicare and medicaid billings  
15 and collections, rather than channeling all activities  
16 through the Indian Health Service, will enable the  
17 Indian Health Service to reduce its administrative  
18 costs, is consistent with the provisions of the Indian  
19 Self-Determination Act, and furthers the commit-  
20 ment of the Secretary to enable tribes and tribal or-  
21 ganizations to manage and operate their health care  
22 programs.

23 (5) The demonstration program was originally  
24 to expire on September 30, 1996, but was extended  
25 by Congress, so that the current participants would

1 not experience an interruption in the program while  
2 Congress awaited a recommendation from the Sec-  
3 retary of Health and Human Services on whether to  
4 make the program permanent.

5 (6) It would be beneficial to the Indian Health  
6 Service and to Indian tribes, tribal organizations,  
7 and Alaska Native organizations to provide perma-  
8 nent status to the demonstration program and to ex-  
9 tend participation in the program to other Indian  
10 tribes, tribal organizations, and Alaska Native  
11 health organizations who operate a facility of the In-  
12 dian Health Service.

13 **SEC. 3. DIRECT BILLING OF MEDICARE, MEDICAID, AND**  
14 **OTHER THIRD PARTY PAYORS.**

15 (a) **PERMANENT AUTHORIZATION.**—Section 405 of  
16 the Indian Health Care Improvement Act (25 U.S.C.  
17 1645) is amended to read as follows:

18 “(a) **ESTABLISHMENT OF DIRECT BILLING PRO-**  
19 **GRAM.**—

20 “(1) **IN GENERAL.**—The Secretary shall estab-  
21 lish a program under which Indian tribes, tribal or-  
22 ganizations, and Alaska Native health organizations  
23 that contract or compact for the operation of a hos-  
24 pital or clinic of the Service under the Indian Self-  
25 Determination and Education Assistance Act may

1 elect to directly bill for, and receive payment for,  
2 health care services provided by such hospital or  
3 clinic for which payment is made under title XVIII  
4 of the Social Security Act (42 U.S.C. 1395 et seq.)  
5 (in this section referred to as the ‘medicare pro-  
6 gram’); under a State plan for medical assistance  
7 approved under title XIX of the Social Security Act  
8 (42 U.S.C. 1396 et seq.) (in this section referred  
9 to as the ‘medicaid program’); or from any other  
10 third party payor.

11 “(2) APPLICATION OF 100 PERCENT FMAP.—

12 The third sentence of section 1905(b) of the Social  
13 Security Act (42 U.S.C. 1396d(b)) shall apply for  
14 purposes of reimbursement under the medicaid pro-  
15 gram for health care services directly billed under  
16 the program established under this section.

17 “(b) DIRECT REIMBURSEMENT.—

18 “(1) USE OF FUNDS.—Each hospital or clinic  
19 participating in the program described in subsection  
20 (a) of this section shall be reimbursed directly under  
21 the Medicare and Medicaid programs for services  
22 furnished, without regard to the provisions of section  
23 1880(e) of the Social Security Act (42 U.S.C.  
24 1395qq(e)) and sections 402(a) and 813(b)(2)(A),  
25 but all funds so reimbursed shall first be used by the

1 hospital or clinic for the purpose of making any im-  
2 provements in the hospital or clinic that may be nec-  
3 essary to achieve or maintain compliance with the  
4 conditions and requirements applicable generally to  
5 facilities of such type under the medicare or med-  
6 icaid programs. Any funds so reimbursed which are  
7 in excess of the amount necessary to achieve or  
8 maintain such conditions shall be used—

9 “(A) solely for improving the health re-  
10 sources deficiency level of the Indian tribe; and

11 “(B) in accordance with the regulations of  
12 the Service applicable to funds provided by the  
13 Service under any contract entered into under  
14 the Indian Self-Determination Act (25 U.S.C.  
15 450f et seq.).

16 “(2) AUDITS.—The amounts paid to the hos-  
17 pitals and clinics participating in the program estab-  
18 lished under this section shall be subject to all audit-  
19 ing requirements applicable to programs adminis-  
20 tered directly by the Service and to facilities partici-  
21 pating in the medicare and medicaid programs.

22 “(3) SECRETARIAL OVERSIGHT.—

23 “(A) QUARTERLY REPORTS.—Subject to  
24 subparagraph (B), the Secretary shall monitor  
25 the performance of hospitals and clinics partici-

1           pating in the program established under this  
2           section, and shall require such hospitals and  
3           clinics to submit reports on the program to the  
4           Secretary on a quarterly basis during the first  
5           2 years of participation in the program and an-  
6           nually thereafter.

7           “(B) ANNUAL REPORTS.—Any participant  
8           in the demonstration program authorized under  
9           this section as in effect on the day before the  
10          date of enactment of the Alaska Native and  
11          American Indian Direct Reimbursement Act of  
12          1999 shall only be required to submit annual  
13          reports under this paragraph.

14          “(4) NO PAYMENTS FROM SPECIAL FUNDS.—  
15          Notwithstanding section 1880(e) of the Social Secu-  
16          rity Act (42 U.S.C. 1395qq(e)) or section 402(a), no  
17          payment may be made out of the special funds de-  
18          scribed in such sections for the benefit of any hos-  
19          pital or clinic during the period that the hospital or  
20          clinic participates in the program established under  
21          this section.

22          “(c) REQUIREMENTS FOR PARTICIPATION.—

23          “(1) APPLICATION.—Except as provided in  
24          paragraph (2)(B), in order to be eligible for partici-  
25          pation in the program established under this section,



1 an Indian tribe, tribal organization, or Alaska Na-  
 2 tive health organization shall submit an application  
 3 to the Secretary that establishes to the satisfaction  
 4 of the Secretary that—

5 “(A) the Indian tribe, tribal organization,  
 6 or Alaska Native health organization contracts  
 7 or compacts for the operation of a facility of the  
 8 Service;

9 “(B) the facility is eligible to participate in  
 10 the medicare or medicaid programs under sec-  
 11 tion 1880 or 1911 of the Social Security Act  
 12 (42 U.S.C. 1395qq; 1396j);

13 “(C) the facility meets the requirements  
 14 that apply to programs operated directly by the  
 15 Service; and

16 “(D) the facility is accredited by an ac-  
 17 crediting body designated by the Secretary or  
 18 has submitted a plan, which has been approved  
 19 by the Secretary, for achieving such accredita-  
 20 tion.

21 “(2) APPROVAL.—

22 “(A) IN GENERAL.—The Secretary shall  
 23 review and approve a qualified application not  
 24 later than 90 days after the date the applica-  
 25 tion is submitted to the Secretary unless the

1 Secretary determines that any of the criteria set  
2 forth in paragraph (1) are not met.

3 “(B) GRANDFATHER OF DEMONSTRATION  
4 PROGRAM PARTICIPANTS.—Any participant in  
5 the demonstration program authorized under  
6 this section as in effect on the day before the  
7 date of enactment of the Alaska Native and  
8 American Indian Direct Reimbursement Act of  
9 1999 shall be deemed approved for participa-  
10 tion in the program established under this sec-  
11 tion and shall not be required to submit an ap-  
12 plication in order to participate in the program.

13 “(C) DURATION.—An approval by the Sec-  
14 retary of a qualified application under subpara-  
15 graph (A), or a deemed approval of a dem-  
16 onstration program under subparagraph (B),  
17 shall continue in effect as long as the approved  
18 applicant or the deemed approved demonstra-  
19 tion program meets the requirements of this  
20 section.

21 “(d) EXAMINATION AND IMPLEMENTATION OF  
22 CHANGES.—

23 “(1) IN GENERAL.—The Secretary, acting  
24 through the Service, and with the assistance of the  
25 Administrator of the Health Care Financing Admin-

1       istration, shall examine on an ongoing basis and  
2       implement—

3               “(A) any administrative changes that may  
4       be necessary to facilitate direct billing and re-  
5       imbursement under the program established  
6       under this section, including any agreements  
7       with States that may be necessary to provide  
8       for direct billing under the medicaid program;  
9       and

10              “(B) any changes that may be necessary to  
11       enable participants in the program established  
12       under this section to provide to the Service  
13       medical records information on patients served  
14       under the program that is consistent with the  
15       medical records information system of the Serv-  
16       ice.

17              “(2) ACCOUNTING INFORMATION.—The ac-  
18       counting information that a participant in the pro-  
19       gram established under this section shall be required  
20       to report shall be the same as the information re-  
21       quired to be reported by participants in the dem-  
22       onstration program authorized under this section as  
23       in effect on the day before the date of enactment of  
24       the Alaska Native and American Indian Direct Re-  
25       imbursement Act of 1999. The Secretary may from

1 time to time, after consultation with the program  
2 participants, change the accounting information sub-  
3 mission requirements.

4 “(e) WITHDRAWAL FROM PROGRAM.—A participant  
5 in the program established under this section may with-  
6 draw from participation in the same manner and under  
7 the same conditions that a tribe or tribal organization may  
8 retrocede a contracted program to the Secretary under au-  
9 thority of the Indian Self-Determination Act (25 U.S.C.  
10 450 et seq.). All cost accounting and billing authority  
11 under the program established under this section shall be  
12 returned to the Secretary upon the Secretary’s acceptance  
13 of the withdrawal of participation in this program.”.

14 (b) CONFORMING AMENDMENTS.—

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

18 “(e) For provisions relating to the authority of cer-  
19 tain Indian tribes, tribal organizations, and Alaska Native  
20 health organizations to elect to directly bill for, and receive  
21 payment for, health care services provided by a hospital  
22 or clinic of such tribes or organizations and for which pay-  
23 ment may be made under this title, see section 405 of the  
24 Indian Health Care Improvement Act (25 U.S.C. 1645).”.

1           (2) Section 1911 of the Social Security Act (42  
2           U.S.C. 1396j) is amended by adding at the end the  
3           following:

4           “(d) For provisions relating to the authority of cer-  
5           tain Indian tribes, tribal organizations, and Alaska Native  
6           health organizations to elect to directly bill for, and receive  
7           payment for, health care services provided by a hospital  
8           or clinic of such tribes or organizations and for which pay-  
9           ment may be made under this title, see section 405 of the  
10          Indian Health Care Improvement Act (25 U.S.C. 1645).”.

11          (e) EFFECTIVE DATE.—The amendments made by  
12          this section shall take effect on October 1, 2000.

13          **SECTION 1. SHORT TITLE.**

14          This Act may be cited as the “Alaska Native and  
15          American Indian Direct Reimbursement Act of 1999”.

16          **SEC. 2. FINDINGS.**

17          Congress finds the following:

18                 (1) In 1988, Congress enacted section 405 of  
19                 the Indian Health Care Improvement Act (25 U.S.C.  
20                 1645) that established a demonstration program to  
21                 authorize 4 tribally-operated Indian Health Service  
22                 hospitals or clinics to test methods for direct billing  
23                 and receipt of payment for health services provided  
24                 to patients eligible for reimbursement under the  
25                 medicare or medicaid programs under titles XVIII

1 and XIX of the Social Security Act (42 U.S.C. 1395  
2 et seq.; 1396 et seq.); and other third-party payors.

3 (2) The 4 participants selected by the Indian  
4 Health Service for the demonstration program began  
5 the direct billing and collection program in fiscal  
6 year 1989 and unanimously expressed success and  
7 satisfaction with the program. Benefits of the pro-  
8 gram include dramatically increased collections for  
9 services provided under the medicare and medicaid  
10 programs; a significant reduction in the turn-around  
11 time between billing and receipt of payments for  
12 services provided to eligible patients; and increased  
13 efficiency of participants being able to track their  
14 own billings and collections.

15 (3) The success of the demonstration program  
16 confirms that the direct involvement of tribes and  
17 tribal organizations in the direct billing of, and col-  
18 lection of payments from, the medicare and medicaid  
19 programs; and other third payor reimbursements; is  
20 more beneficial to Indian tribes than the current  
21 system of Indian Health Service-managed collec-  
22 tions.

23 (4) Allowing tribes and tribal organizations to  
24 directly manage their medicare and medicaid billings  
25 and collections; rather than channeling all activities

1 through the Indian Health Service, will enable the  
2 Indian Health Service to reduce its administrative  
3 costs, is consistent with the provisions of the Indian  
4 Self-Determination Act, and furthers the commit-  
5 ment of the Secretary to enable tribes and tribal or-  
6 ganizations to manage and operate their health care  
7 programs.

8 (5) The demonstration program was originally  
9 to expire on September 30, 1996, but was extended  
10 by Congress, so that the current participants would  
11 not experience an interruption in the program while  
12 Congress awaited a recommendation from the Sec-  
13 retary of Health and Human Services on whether to  
14 make the program permanent.

15 (6) It would be beneficial to the Indian Health  
16 Service and to Indian tribes, tribal organizations,  
17 and Alaska Native organizations to provide perma-  
18 nent status to the demonstration program and to ex-  
19 tend participation in the program to other Indian  
20 tribes, tribal organizations, and Alaska Native  
21 health organizations who operate a facility of the In-  
22 dian Health Service.

1 **SEC. 3. DIRECT BILLING OF MEDICARE, MEDICAID, AND**  
 2 **OTHER THIRD PARTY PAYORS.**

3 (a) **PERMANENT AUTHORIZATION.**—Section 405 of  
 4 the Indian Health Care Improvement Act (25 U.S.C.  
 5 1645) is amended to read as follows:

6 “(a) **ESTABLISHMENT OF DIRECT BILLING PRO-**  
 7 **GRAM.**—

8 “(1) **IN GENERAL.**—The Secretary shall estab-  
 9 lish a program under which Indian tribes, tribal or-  
 10 ganizations, and Alaska Native health organizations  
 11 that contract or compact for the operation of a hos-  
 12 pital or clinic of the Service under the Indian Self-  
 13 Determination and Education Assistance Act may  
 14 elect to directly bill for, and receive payment for,  
 15 health care services provided by such hospital or  
 16 clinic for which payment is made under title XVIII  
 17 of the Social Security Act (42 U.S.C. 1395 et seq.)  
 18 (in this section referred to as the ‘medicare pro-  
 19 gram’), under a State plan for medical assistance  
 20 approved under title XIX of the Social Security Act  
 21 (42 U.S.C. 1396 et seq.) (in this section referred  
 22 to as the ‘medicaid program’), or from any other  
 23 third party payor.

24 “(2) **APPLICATION OF 100 PERCENT FMAP.**—  
 25 The third sentence of section 1905(b) of the Social  
 26 Security Act (42 U.S.C. 1396d(b)) shall apply for



1 purposes of reimbursement under the medicaid pro-  
2 gram for health care services directly billed under  
3 the program established under this section.

4 “(b) DIRECT REIMBURSEMENT.—

5 “(1) USE OF FUNDS.—Each hospital or clinic  
6 participating in the program described in subsection  
7 (a) of this section shall be reimbursed directly under  
8 the medicare and medicaid programs for services  
9 furnished, without regard to the provisions of section  
10 1880(e) of the Social Security Act (42 U.S.C.  
11 1395qq(e)) and sections 402(a) and 813(b)(2)(A),  
12 but all funds so reimbursed shall first be used by the  
13 hospital or clinic for the purpose of making any im-  
14 provements in the hospital or clinic that may be nec-  
15 essary to achieve or maintain compliance with the  
16 conditions and requirements applicable generally to  
17 facilities of such type under the medicare or med-  
18 icaid programs. Any funds so reimbursed which are  
19 in excess of the amount necessary to achieve or  
20 maintain such conditions shall be used—

21 “(A) solely for improving the health re-  
22 sources deficiency level of the Indian tribe; and

23 “(B) in accordance with the regulations of  
24 the Service applicable to funds provided by the  
25 Service under any contract entered into under

1 the Indian Self-Determination Act (25 U.S.C.  
2 450f et seq.).

3 ~~“(2) AUDITS.—~~The amounts paid to the hos-  
4 pitals and clinics participating in the program estab-  
5 lished under this section shall be subject to all audit-  
6 ing requirements applicable to programs adminis-  
7 tered directly by the Service and to facilities partici-  
8 pating in the medicare and medicaid programs.

9 ~~“(3) SECRETARIAL OVERSIGHT.—~~The Secretary  
10 shall monitor the performance of hospitals and clin-  
11 ics participating in the program established under  
12 this section, and shall require such hospitals and  
13 clinics to submit reports on the program to the Sec-  
14 retary on an annual basis.

15 ~~“(4) NO PAYMENTS FROM SPECIAL FUNDS.—~~  
16 Notwithstanding section 1880(e) of the Social Secu-  
17 rity Act (42 U.S.C. 1395qq(e)) or section 402(a), no  
18 payment may be made out of the special funds de-  
19 scribed in such sections for the benefit of any hos-  
20 pital or clinic during the period that the hospital or  
21 clinic participates in the program established under  
22 this section.

23 ~~“(e) REQUIREMENTS FOR PARTICIPATION.—~~

24 ~~“(1) APPLICATION.—~~Except as provided in  
25 paragraph (2)(B), in order to be eligible for partici-

1       pation in the program established under this section;  
 2       an Indian tribe, tribal organization, or Alaska Na-  
 3       tive health organization shall submit an application  
 4       to the Secretary that establishes to the satisfaction  
 5       of the Secretary that—

6               “(A) the Indian tribe, tribal organization,  
 7               or Alaska Native health organization contracts  
 8               or compacts for the operation of a facility of the  
 9               Service;

10              “(B) the facility is eligible to participate in  
 11              the medicare or medicaid programs under sec-  
 12              tion 1880 or 1911 of the Social Security Act  
 13              (42 U.S.C. 1395qq, 1396j);

14              “(C) the facility meets the requirements  
 15              that apply to programs operated directly by the  
 16              Service; and

17              “(D) the facility—

18                      “(i) is accredited by an accrediting  
 19                      body as eligible for reimbursement under  
 20                      the medicare or medicaid programs; or

21                      “(ii) has submitted a plan, which has  
 22                      been approved by the Secretary, for achiev-  
 23                      ing such accreditation.

24              “(2) APPROVAL.—

1           “(A) IN GENERAL.—The Secretary shall  
2 review and approve a qualified application not  
3 later than 90 days after the date the applica-  
4 tion is submitted to the Secretary unless the  
5 Secretary determines that any of the criteria set  
6 forth in paragraph (1) are not met.

7           “(B) GRANDFATHER OF DEMONSTRATION  
8 PROGRAM PARTICIPANTS.—Any participant in  
9 the demonstration program authorized under  
10 this section as in effect on the day before the  
11 date of enactment of the Alaska Native and  
12 American Indian Direct Reimbursement Act of  
13 1999 shall be deemed approved for participa-  
14 tion in the program established under this sec-  
15 tion and shall not be required to submit an ap-  
16 plication in order to participate in the program.

17           “(C) DURATION.—An approval by the Sec-  
18 retary of a qualified application under subpara-  
19 graph (A), or a deemed approval of a dem-  
20 onstration program under subparagraph (B),  
21 shall continue in effect as long as the approved  
22 applicant or the deemed approved demonstra-  
23 tion program meets the requirements of this  
24 section.

1       “(d) EXAMINATION AND IMPLEMENTATION OF  
2 CHANGES.—

3           “(1) IN GENERAL.—The Secretary, acting  
4 through the Service, and with the assistance of the  
5 Administrator of the Health Care Financing Admin-  
6 istration, shall examine on an ongoing basis and  
7 implement—

8           “(A) any administrative changes that may  
9 be necessary to facilitate direct billing and re-  
10 imbursement under the program established  
11 under this section, including any agreements  
12 with States that may be necessary to provide  
13 for direct billing under the medicaid program;  
14 and

15           “(B) any changes that may be necessary to  
16 enable participants in the program established  
17 under this section to provide to the Service  
18 medical records information on patients served  
19 under the program that is consistent with the  
20 medical records information system of the Serv-  
21 ice.

22           “(2) ACCOUNTING INFORMATION.—The ac-  
23 counting information that a participant in the pro-  
24 gram established under this section shall be required  
25 to report shall be the same as the information re-

1        required to be reported by participants in the dem-  
2        onstration program authorized under this section as  
3        in effect on the day before the date of enactment of  
4        the Alaska Native and American Indian Direct Re-  
5        imbursement Act of 1999. The Secretary may from  
6        time to time, after consultation with the program  
7        participants, change the accounting information sub-  
8        mission requirements.

9        “(e) **WITHDRAWAL FROM PROGRAM.**—A participant  
10       in the program established under this section may with-  
11       draw from participation in the same manner and under  
12       the same conditions that a tribe or tribal organization may  
13       retrocede a contracted program to the Secretary under au-  
14       thority of the Indian Self-Determination Act (25 U.S.C.  
15       450 et seq.). All cost accounting and billing authority  
16       under the program established under this section shall be  
17       returned to the Secretary upon the Secretary’s acceptance  
18       of the withdrawal of participation in this program.”.

19       (b) **CONFORMING AMENDMENTS.**—

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

23        “(e) For provisions relating to the authority of cer-  
24       tain Indian tribes, tribal organizations, and Alaska Native  
25       health organizations to elect to directly bill for, and receive

1 payment for, health care services provided by a hospital  
 2 or clinic of such tribes or organizations and for which pay-  
 3 ment may be made under this title, see section 405 of the  
 4 Indian Health Care Improvement Act (25 U.S.C. 1645).”.

5 (2) Section 1911 of the Social Security Act (42  
 6 U.S.C. 1396j) is amended by adding at the end the  
 7 following:

8 “(d) For provisions relating to the authority of cer-  
 9 tain Indian tribes, tribal organizations, and Alaska Native  
 10 health organizations to elect to directly bill for, and receive  
 11 payment for, health care services provided by a hospital  
 12 or clinic of such tribes or organizations and for which pay-  
 13 ment may be made under this title, see section 405 of the  
 14 Indian Health Care Improvement Act (25 U.S.C. 1645).”.

15 (e) EFFECTIVE DATE.—The amendments made by  
 16 this section shall take effect on October 1, 2000.

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Alaska Native and*  
 19 *American Indian Direct Reimbursement Act of 1999”.*

20 **SEC. 2. FINDINGS.**

21 *Congress finds the following:*

22 (1) *In 1988, Congress enacted section 405 of the*  
 23 *Indian Health Care Improvement Act (25 U.S.C.*  
 24 *1645) that established a demonstration program to*  
 25 *authorize 4 tribally-operated Indian Health Service*

1 *hospitals or clinics to test methods for direct billing*  
2 *and receipt of payment for health services provided to*  
3 *patients eligible for reimbursement under the medi-*  
4 *care or medicaid programs under titles XVIII and*  
5 *XIX of the Social Security Act (42 U.S.C. 1395 et*  
6 *seq.; 1396 et seq.), and other third-party payors.*

7 (2) *The 4 participants selected by the Indian*  
8 *Health Service for the demonstration program began*  
9 *the direct billing and collection program in fiscal*  
10 *year 1989 and unanimously expressed success and*  
11 *satisfaction with the program. Benefits of the pro-*  
12 *gram include dramatically increased collections for*  
13 *services provided under the medicare and medicaid*  
14 *programs, a significant reduction in the turn-around*  
15 *time between billing and receipt of payments for serv-*  
16 *ices provided to eligible patients, and increased effi-*  
17 *ciency of participants being able to track their own*  
18 *billings and collections.*

19 (3) *The success of the demonstration program*  
20 *confirms that the direct involvement of tribes and*  
21 *tribal organizations in the direct billing of, and col-*  
22 *lection of payments from, the medicare and medicaid*  
23 *programs, and other third payor reimbursements, is*  
24 *more beneficial to Indian tribes than the current sys-*  
25 *tem of Indian Health Service-managed collections.*



1           (4) *Allowing tribes and tribal organizations to*  
2 *directly manage their medicare and medicaid billings*  
3 *and collections, rather than channeling all activities*  
4 *through the Indian Health Service, will enable the In-*  
5 *Indian Health Service to reduce its administrative*  
6 *costs, is consistent with the provisions of the Indian*  
7 *Self-Determination Act, and furthers the commitment*  
8 *of the Secretary to enable tribes and tribal organiza-*  
9 *tions to manage and operate their health care pro-*  
10 *grams.*

11           (5) *The demonstration program was originally*  
12 *to expire on September 30, 1996, but was extended by*  
13 *Congress, so that the current participants would not*  
14 *experience an interruption in the program while Con-*  
15 *gress awaited a recommendation from the Secretary*  
16 *of Health and Human Services on whether to make*  
17 *the program permanent.*

18           (6) *It would be beneficial to the Indian Health*  
19 *Service and to Indian tribes, tribal organizations,*  
20 *and Alaska Native organizations to provide perma-*  
21 *nent status to the demonstration program and to ex-*  
22 *extend participation in the program to other Indian*  
23 *tribes, tribal organizations, and Alaska Native health*  
24 *organizations who operate a facility of the Indian*  
25 *Health Service.*

1 **SEC. 3. DIRECT BILLING OF MEDICARE, MEDICAID, AND**  
2 **OTHER THIRD PARTY PAYORS.**

3 (a) *PERMANENT AUTHORIZATION.*—Section 405 of the  
4 *Indian Health Care Improvement Act (25 U.S.C. 1645)* is  
5 amended to read as follows:

6 “(a) *ESTABLISHMENT OF DIRECT BILLING PRO-*  
7 *GRAM.*—

8 “(1) *IN GENERAL.*—The Secretary shall establish  
9 a program under which Indian tribes, tribal organi-  
10 zations, and Alaska Native health organizations that  
11 contract or compact for the operation of a hospital or  
12 clinic of the Service under the Indian Self-Determina-  
13 tion and Education Assistance Act may elect to di-  
14 rectly bill for, and receive payment for, health care  
15 services provided by such hospital or clinic for which  
16 payment is made under title XVIII of the Social Se-  
17 curity Act (42 U.S.C. 1395 et seq.) (in this section re-  
18 ferred to as the ‘medicare program’), under a State  
19 plan for medical assistance approved under title XIX  
20 of the Social Security Act (42 U.S.C. 1396 et seq.)  
21 (in this section referred to as the ‘medicaid pro-  
22 gram’), or from any other third party payor.

23 “(2) *APPLICATION OF 100 PERCENT FMAP.*—The  
24 third sentence of section 1905(b) of the Social Secu-  
25 rity Act (42 U.S.C. 1396d(b)) shall apply for pur-  
26 poses of reimbursement under the medicaid program

1     *for health care services directly billed under the pro-*  
2     *gram established under this section.*

3     “(b) *DIRECT REIMBURSEMENT.*—

4             “(1) *USE OF FUNDS.*—*Each hospital or clinic*  
5     *participating in the program described in subsection*  
6     *(a) of this section shall be reimbursed directly under*  
7     *the medicare and medicaid programs for services fur-*  
8     *nished, without regard to the provisions of section*  
9     *1880(c) of the Social Security Act (42 U.S.C.*  
10    *1395qq(c)) and sections 402(a) and 813(b)(2)(A), but*  
11    *all funds so reimbursed shall first be used by the hos-*  
12    *pital or clinic for the purpose of making any im-*  
13    *provements in the hospital or clinic that may be nec-*  
14    *essary to achieve or maintain compliance with the*  
15    *conditions and requirements applicable generally to*  
16    *facilities of such type under the medicare or medicaid*  
17    *programs. Any funds so reimbursed which are in ex-*  
18    *cess of the amount necessary to achieve or maintain*  
19    *such conditions shall be used—*

20             “(A) *solely for improving the health re-*  
21             *sources deficiency level of the Indian tribe; and*

22             “(B) *in accordance with the regulations of*  
23             *the Service applicable to funds provided by the*  
24             *Service under any contract entered into under*

1           *the Indian Self-Determination Act (25 U.S.C.*  
2           *450f et seq.).*

3           “(2) *AUDITS.—The amounts paid to the hos-*  
4           *pitals and clinics participating in the program estab-*  
5           *lished under this section shall be subject to all audit-*  
6           *ing requirements applicable to programs administered*  
7           *directly by the Service and to facilities participating*  
8           *in the medicare and medicaid programs.*

9           “(3) *SECRETARIAL OVERSIGHT.—The Secretary*  
10          *shall monitor the performance of hospitals and clinics*  
11          *participating in the program established under this*  
12          *section, and shall require such hospitals and clinics to*  
13          *submit reports on the program to the Secretary on an*  
14          *annual basis.*

15          “(4) *NO PAYMENTS FROM SPECIAL FUNDS.—Not-*  
16          *withstanding section 1880(c) of the Social Security*  
17          *Act (42 U.S.C. 1395qq(c)) or section 402(a), no pay-*  
18          *ment may be made out of the special funds described*  
19          *in such sections for the benefit of any hospital or clin-*  
20          *ic during the period that the hospital or clinic par-*  
21          *ticipates in the program established under this sec-*  
22          *tion.*

23          “(c) *REQUIREMENTS FOR PARTICIPATION.—*

24                 “(1) *APPLICATION.—Except as provided in para-*  
25                 *graph (2)(B), in order to be eligible for participation*

1       *in the program established under this section, an In-*  
2       *dian tribe, tribal organization, or Alaska Native*  
3       *health organization shall submit an application to the*  
4       *Secretary that establishes to the satisfaction of the*  
5       *Secretary that—*

6               “(A) *the Indian tribe, tribal organization,*  
7               *or Alaska Native health organization contracts*  
8               *or compacts for the operation of a facility of the*  
9               *Service;*

10              “(B) *the facility is eligible to participate in*  
11              *the medicare or medicaid programs under sec-*  
12              *tion 1880 or 1911 of the Social Security Act (42*  
13              *U.S.C. 1395qq; 1396j);*

14              “(C) *the facility meets the requirements that*  
15              *apply to programs operated directly by the Serv-*  
16              *ice; and*

17              “(D) *the facility—*

18                      “(i) *is accredited by an accrediting*  
19                      *body as eligible for reimbursement under the*  
20                      *medicare or medicaid programs; or*

21                      “(ii) *has submitted a plan, which has*  
22                      *been approved by the Secretary, for achiev-*  
23                      *ing such accreditation.*

24              “(2) *APPROVAL.—*

1           “(A) *IN GENERAL.*—*The Secretary shall re-*  
2           *view and approve a qualified application not*  
3           *later than 90 days after the date the application*  
4           *is submitted to the Secretary unless the Secretary*  
5           *determines that any of the criteria set forth in*  
6           *paragraph (1) are not met.*

7           “(B) *GRANDFATHER OF DEMONSTRATION*  
8           *PROGRAM PARTICIPANTS.*—*Any participant in*  
9           *the demonstration program authorized under*  
10           *this section as in effect on the day before the date*  
11           *of enactment of the Alaska Native and American*  
12           *Indian Direct Reimbursement Act of 1999 shall*  
13           *be deemed approved for participation in the pro-*  
14           *gram established under this section and shall not*  
15           *be required to submit an application in order*  
16           *to participate in the program.*

17           “(C) *DURATION.*—*An approval by the Sec-*  
18           *retary of a qualified application under subpara-*  
19           *graph (A), or a deemed approval of a demonstra-*  
20           *tion program under subparagraph (B), shall*  
21           *continue in effect as long as the approved appli-*  
22           *cant or the deemed approved demonstration pro-*  
23           *gram meets the requirements of this section.*

24           “(d) *EXAMINATION AND IMPLEMENTATION OF*  
25           *CHANGES.*—

1           “(1) *IN GENERAL.*—*The Secretary, acting*  
2           *through the Service, and with the assistance of the*  
3           *Administrator of the Health Care Financing Admin-*  
4           *istration, shall examine on an ongoing basis and*  
5           *implement—*

6                   “(A) *any administrative changes that may*  
7                   *be necessary to facilitate direct billing and reim-*  
8                   *bursement under the program established under*  
9                   *this section, including any agreements with*  
10                  *States that may be necessary to provide for di-*  
11                  *rect billing under the medicaid program; and*

12                  “(B) *any changes that may be necessary to*  
13                  *enable participants in the program established*  
14                  *under this section to provide to the Service med-*  
15                  *ical records information on patients served*  
16                  *under the program that is consistent with the*  
17                  *medical records information system of the Serv-*  
18                  *ice.*

19           “(2) *ACCOUNTING INFORMATION.*—*The account-*  
20           *ing information that a participant in the program*  
21           *established under this section shall be required to re-*  
22           *port shall be the same as the information required to*  
23           *be reported by participants in the demonstration pro-*  
24           *gram authorized under this section as in effect on the*  
25           *day before the date of enactment of the Alaska Native*

1        *and American Indian Direct Reimbursement Act of*  
2        *1999. The Secretary may from time to time, after*  
3        *consultation with the program participants, change*  
4        *the accounting information submission requirements.*

5        *“(e) WITHDRAWAL FROM PROGRAM.—A participant*  
6        *in the program established under this section may with-*  
7        *draw from participation in the same manner and under*  
8        *the same conditions that a tribe or tribal organization may*  
9        *retrocede a contracted program to the Secretary under au-*  
10       *thority of the Indian Self-Determination Act (25 U.S.C.*  
11       *450 et seq.). All cost accounting and billing authority under*  
12       *the program established under this section shall be returned*  
13       *to the Secretary upon the Secretary’s acceptance of the with-*  
14       *drawal of participation in this program.”.*

15       *(b) CONFORMING AMENDMENTS.—*

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

19        *“(e) For provisions relating to the authority of certain*  
20        *Indian tribes, tribal organizations, and Alaska Native*  
21        *health organizations to elect to directly bill for, and receive*  
22        *payment for, health care services provided by a hospital or*  
23        *clinic of such tribes or organizations and for which pay-*  
24        *ment may be made under this title, see section 405 of the*  
25        *Indian Health Care Improvement Act (25 U.S.C. 1645).”.*



1           (2) *Section 1911 of the Social Security Act (42*  
2           *U.S.C. 1396j) is amended by adding at the end the*  
3           *following:*

4           “(d) *For provisions relating to the authority of certain*  
5           *Indian tribes, tribal organizations, and Alaska Native*  
6           *health organizations to elect to directly bill for, and receive*  
7           *payment for, health care services provided by a hospital or*  
8           *clinic of such tribes or organizations and for which pay-*  
9           *ment may be made under this title, see section 405 of the*  
10          *Indian Health Care Improvement Act (25 U.S.C. 1645).”.*

11          (c) *EFFECTIVE DATE.—The amendments made by this*  
12          *section shall take effect on October 1, 2000.*

13          **SEC. 4. TECHNICAL AMENDMENT.**

14          (a) *IN GENERAL.—Effective November 9, 1998, section*  
15          *405 of the Indian Health Care Improvement Act (25 U.S.C.*  
16          *1645(e)) is reenacted as in effect on that date.*

17          (b) *REPORTS.—Effective November 10, 1998, section*  
18          *405 of the Indian Health Care Improvement Act is amended*  
19          *by striking subsection (e).*