

117TH CONGRESS
2D SESSION

H. R. 8937

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 HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2022

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, and Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 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:

8 **“SEC. 125. INCENTIVES FOR RECRUITMENT AND RETEN-**
9 **TION.**

10 “(a) **PARITY IN IHS HEALTH CARE WORKFORCE**
11 **PERSONNEL AND PAY SYSTEM.**—The Secretary shall es-
12 tablish a personnel and pay system for physicians, den-
13 tists, nurses, and other health care professionals employed
14 by the Service that provides a personnel and pay system
15 that, to the maximum extent practicable, is comparable
16 to the pay provided to physicians, dentists, nurses, and
17 other health care professionals, respectively, under sub-
18 chapters III and IV of chapter 74 of title 38, United
19 States Code.

20 “(b) **HOUSING VOUCHERS.**—

21 “(1) **IN GENERAL.**—Subject to paragraph (2),
22 not later than 1 year after the date of enactment of
23 the Restoring Accountability in the Indian Health
24 Service Act of 2022, the Secretary may establish a

1 program to provide tenant-based rental assistance to
2 an employee of the Service who—

3 “(A) agrees to serve for not less than 1
4 year at a Service unit designated by the Admin-
5 istrator of the Health Resources and Services
6 Administration as a health professional short-
7 age area (as defined in section 332(a) of the
8 Public Health Service Act (42 U.S.C. 254e(a)))
9 with the greatest staffing need; and

10 “(B) is a critical employee, as determined
11 by the Secretary.

12 “(2) SUNSET.—Any program established by the
13 Secretary under paragraph (1) shall terminate on
14 the date that is 3 years after the date on which the
15 program is established.

16 “(3) REPORTS.—Not later than 1 year after the
17 date on which a program established under para-
18 graph (1) is terminated in accordance with para-
19 graph (2), the Secretary shall submit to Congress a
20 report describing, with respect to that program—

21 “(A) the costs of the program;

22 “(B) employee uptake of the program; and

23 “(C) the effects of the program on local fa-
24 cility staffing needs.

1 “(c) ADMINISTRATION.—The Secretary may only
2 provide a benefit under subsection (b) to—

3 “(1) a full-time employee who agrees to serve
4 for not less than 1 year in the Service beginning on
5 the date of the agreement; or

6 “(2) a part-time employee who agrees to serve
7 for not less than 2 years in the service beginning on
8 the date of the agreement.”.

9 **SEC. 102. MEDICAL CREDENTIALING SYSTEM.**

10 Title I of the Indian Health Care Improvement Act
11 (25 U.S.C. 1611 et seq.) (as amended by section 101) is
12 amended by adding at the end the following:

13 **“SEC. 126. MEDICAL CREDENTIALING SYSTEM.**

14 “(a) IN GENERAL.—

15 “(1) DEVELOPMENT AND IMPLEMENTATION
16 TIMELINE.—Not later than 1 year after the date of
17 enactment of the Restoring Accountability in the In-
18 dian Health Service Act of 2022, the Secretary, act-
19 ing through the Service (referred to in this section
20 as the ‘Secretary’), in accordance with subsection
21 (b), shall develop and implement a Service-wide cen-
22 tralized credentialing system (referred to in this sec-
23 tion as the ‘credentialing system’) to credential li-
24 censed health professionals who seek to provide
25 health care services at any Service unit.

1 “(2) IMPLEMENTATION.—In implementing the
2 credentialing system, the Secretary—

3 “(A) shall not require re-credentialing of
4 licensed health professionals who were
5 credentialed using existing Service policy prior
6 to the date of enactment of the Restoring Ac-
7 countability in the Indian Health Service Act of
8 2022; and

9 “(B) shall—

10 “(i) use the credentialing system
11 for—

12 “(I) all applications for
13 credentialing or re-credentialing of li-
14 censed health professionals submitted
15 on or after the date of enactment of
16 the Restoring Accountability in the
17 Indian Health Service Act of 2022;
18 and

19 “(II) the migration into the
20 credentialing system of credentials
21 data that existed prior to implementa-
22 tion of the credentialing system; and

23 “(ii) maintain the established timeline
24 for re-credentialing of licensed health pro-
25 fessionals who were credentialed prior to

1 implementation of the credentialing sys-
2 tem, as defined by Service policy.

3 “(b) REQUIREMENTS.—

4 “(1) IN GENERAL.—In developing the
5 credentialing system under subsection (a), the Sec-
6 retary shall ensure that—

7 “(A) credentialing procedures shall be uni-
8 form throughout the Service; and

9 “(B) with respect to each licensed health
10 professional who successfully completes the
11 credentialing procedures of the credentialing
12 system, the Secretary may authorize the li-
13 censed health professional to provide health
14 care services at any Service unit.

15 “(2) EXEMPTION.—The requirements described
16 in paragraph (1) shall not apply to licensed health
17 professionals who were credentialed using existing
18 Service policy prior to the date of enactment of the
19 Restoring Accountability in the Indian Health Serv-
20 ice Act of 2022 until the date on which those li-
21 censed health professionals are required to be re-
22 credentialed in accordance with the credentialing
23 system developed and implemented under subsection
24 (a).

1 “(c) CONSULTATION.—In developing the
2 credentialing system under subsection (a), the Secretary—

3 “(1) shall consult with Indian tribes; and

4 “(2) may consult with—

5 “(A) any public or private association of
6 medical providers;

7 “(B) any government agency; or

8 “(C) any other relevant expert, as deter-
9 mined by the Secretary.

10 “(d) APPLICATION.—

11 “(1) IN GENERAL.—Subject to paragraph (2), a
12 licensed health care professional may not provide
13 health care services at any Service unit, unless the
14 licensed health care professional successfully com-
15 pletes the credentialing procedures of the
16 credentialing system developed and implemented
17 under subsection (a).

18 “(2) EXEMPTION.—Paragraph (1) shall not
19 apply to licensed health professionals who were
20 credentialed using existing Service policy prior to the
21 date of enactment of the Restoring Accountability in
22 the Indian Health Service Act of 2022 until the date
23 on which those licensed health professionals are re-
24 quired to be re-credentialed in accordance with the

1 credentialing system developed and implemented
2 under subsection (a).

3 “(e) NONDUPLICATION OF EFFORTS.—

4 “(1) IN GENERAL.—To the extent that prior to
5 the deadline described in subsection (a)(1), the Serv-
6 ice has begun implementing or has completed imple-
7 mentation of a medical credentialing system that
8 otherwise meets the requirements of this section, the
9 Service shall not be required to establish a new
10 credentialing system under this section.

11 “(2) AUTHORITY.—The Service may expand or
12 enhance an existing credentialing system to meet the
13 requirements of this section.

14 “(3) REVIEW.—

15 “(A) IN GENERAL.—Not less frequently
16 than once every 5 years, the Service shall—

17 “(i) undertake a formal review of the
18 credentialing system in effect on the date
19 of the review; and

20 “(ii) if necessary, take action to bring
21 the credentialing system into compliance
22 with the requirements of this section.

23 “(B) CONSULTATION.—Each formal review
24 conducted under subparagraph (A) shall be sub-

1 ject to the consultation requirements under sub-
2 section (c).

3 “(f) EFFECT.—Nothing in this section—

4 “(1) negatively impacts the right of an Indian
5 tribe to enter into a compact or contract under the
6 Indian Self-Determination and Education Assistance
7 Act (25 U.S.C. 5301 et seq.); or

8 “(2) applies to such a compact or contract un-
9 less expressly agreed to by the Indian tribe.”.

10 **SEC. 103. LIABILITY PROTECTIONS FOR HEALTH PROFES-**
11 **SIONAL VOLUNTEERS AT INDIAN HEALTH**
12 **SERVICE.**

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

16 “(r) CERTAIN INDIAN HEALTH SERVICE VOLUN-
17 TEERS DEEMED PUBLIC HEALTH SERVICE EMPLOY-
18 EES.—

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, a health professional volunteer at a Service
21 unit shall, in providing a health service to an indi-
22 vidual, be deemed to be an employee of the Public
23 Health Service for a calendar year that begins dur-
24 ing a fiscal year for which a transfer was made

1 under paragraph (4)(C). The preceding sentence is
2 subject to the provisions of this subsection.

3 “(2) CONDITIONS.—In providing a health serv-
4 ice to an individual, a health care practitioner shall,
5 for purposes of this subsection, be considered to be
6 a health professional volunteer at a Service unit if
7 all of the following conditions are met:

8 “(A) The service is provided to the indi-
9 vidual at the facilities of a Service unit, or
10 through offsite programs or events carried out
11 by the Service unit.

12 “(B) The Service unit is sponsoring the
13 health care practitioner pursuant to paragraph
14 (3)(C).

15 “(C) The health care practitioner does not
16 receive any compensation for the service from
17 the individual, the Service unit, or any third-
18 party payer (including reimbursement under
19 any insurance policy or health plan, or under
20 any Federal or State health benefits program),
21 except that the health care practitioner may re-
22 ceive repayment from the Service unit for rea-
23 sonable expenses incurred by the health care
24 practitioner in the provision of the service to
25 the individual.

1 “(D) Before the service is provided, the
2 health care practitioner or the Service unit
3 posts a clear and conspicuous notice at the site
4 where the service is provided of the extent to
5 which the legal liability of the health care prac-
6 titioner is limited under this subsection.

7 “(E) At the time the service is provided,
8 the health care practitioner is licensed, certified,
9 credentialed, and privileged in accordance with
10 Service policy and applicable law regarding the
11 provision of the service.

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

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

1 “(B) The first sentence of paragraph (1)
2 applies in lieu of the first sentence of subsection
3 (g)(1)(A).

4 “(C) With respect to a Service unit, a
5 health care practitioner is not a health profes-
6 sional volunteer at the Service unit unless the
7 Service unit sponsors the health care practi-
8 tioner. For purposes of this subsection, the
9 Service unit shall be considered to be spon-
10 soring the health care practitioner if—

11 “(i) with respect to the health care
12 practitioner, the Service unit submits to
13 the Secretary an application meeting the
14 requirements of subsection (g)(1)(D); and

15 “(ii) the Secretary, pursuant to sub-
16 section (g)(1)(E), determines that the
17 health care practitioner is deemed to be an
18 employee of the Public Health Service.

19 “(D) In the case of a health care practi-
20 tioner who is determined by the Secretary pur-
21 suant to this subsection and subsection
22 (g)(1)(E) to be a health professional volunteer,
23 this subsection applies to the health care practi-
24 tioner (with respect to services performed on
25 behalf of the Service unit sponsoring the health

1 care practitioner pursuant to subparagraph (C))
2 for any cause of action arising from an act or
3 omission of the health care practitioner occur-
4 ring on or after the date on which the Secretary
5 makes that determination.

6 “(E) Subsection (g)(1)(F) applies to a
7 health care practitioner for purposes of this
8 subsection only to the extent that, in providing
9 health services to an individual, each of the con-
10 ditions described in paragraph (2) is met.

11 “(4) FUNDING.—

12 “(A) IN GENERAL.—Amounts in the fund
13 established under subsection (k)(2) shall be
14 available for transfer under subparagraph (C)
15 for purposes of carrying out this subsection.

16 “(B) ANNUAL ESTIMATES.—

17 “(i) IN GENERAL.—Not later than
18 May 1 of each fiscal year, the Attorney
19 General, in consultation with the Sec-
20 retary, shall submit to Congress a report
21 providing an estimate of the amount of
22 claims (together with related fees and ex-
23 penses of witnesses) that, by reason of the
24 acts or omissions of health professional
25 volunteers, will be paid pursuant to this

1 section during the calendar year that be-
2 gins in the following fiscal year.

3 “(ii) APPLICABILITY.—Subsection
4 (k)(1)(B) applies to the estimate under
5 clause (i) relating to health professional
6 volunteers to the same extent and in the
7 same manner as that subsection applies to
8 the estimate under that subsection relating
9 to officers, governing board members, em-
10 ployees, and contractors of entities de-
11 scribed in subsection (g)(4).

12 “(C) TRANSFERS.—Not later than Decem-
13 ber 31 of each fiscal year, the Secretary shall
14 transfer from the fund under subsection (k)(2)
15 to the appropriate accounts in the Treasury an
16 amount equal to the estimate made under sub-
17 paragraph (B) for the calendar year beginning
18 in that fiscal year, subject to the extent of
19 amounts in the fund.

20 “(5) DEFINITION OF SERVICE UNIT.—

21 “(A) IN GENERAL.—In this subsection, the
22 term ‘Service unit’ has the meaning given the
23 term in section 4 of the Indian Health Care Im-
24 provement Act (25 U.S.C. 1603).

1 “(B) INCLUSION.—In this subsection, the
2 term ‘Service unit’ includes an urban Indian or-
3 ganization with which the Indian Health Serv-
4 ice has entered into a contract with, or to which
5 the Indian Health Service has made a grant,
6 under title V of the Indian Health Care Im-
7 provement Act (25 U.S.C. 1651 et seq.).

8 “(6) EFFECT.—Nothing in this subsection—

9 “(A) negatively impacts the right of an In-
10 dian tribe to enter into a compact or contract
11 under the Indian Self-Determination and Edu-
12 cation Assistance Act (25 U.S.C. 5304 et seq.);
13 or

14 “(B) applies to such a compact or contract
15 unless expressly agreed to by the Indian tribe.

16 “(7) EFFECTIVE DATES.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), this subsection shall take ef-
19 fect on October 1, 2022.

20 “(B) REGULATIONS, APPLICATIONS, AND
21 REPORTS.—Effective on the date of the enact-
22 ment of the Restoring Accountability in the In-
23 dian Health Service Act of 2022, the Secretary
24 may—

1 “(i) prescribe regulations for carrying
2 out this subsection; and

3 “(ii) accept and consider applications
4 submitted under paragraph (3)(C)(i).”.

5 **SEC. 104. CLARIFICATION REGARDING ELIGIBILITY FOR IN-**
6 **DIAN HEALTH SERVICE LOAN REPAYMENT**
7 **PROGRAM.**

8 Section 108 of the Indian Health Care Improvement
9 Act (25 U.S.C. 1616a) is amended—

10 (1) in subsection (b)(1), by striking subpara-
11 graph (B) and inserting the following:

12 “(B) have—

13 “(i)(I) a degree in a health profession; and

14 “(II) a license to practice a health profes-
15 sion in a State; or

16 “(ii)(I) a master’s degree in business ad-
17 ministration with an emphasis in health care
18 management (as defined by the Secretary),
19 health administration, hospital administration,
20 or public health; and

21 “(II) a license or certification to practice
22 in the field of business administration, health
23 administration, hospital administration, or pub-
24 lic health in a State, if the Secretary deter-
25 mines the license or certification is necessary

1 for the Indian health program to which the in-
2 dividual will be assigned;”;

3 (2) in subsection (f)(1)(B), by striking clause
4 (iii) and inserting the following:

5 “(iii) to serve for a time period (re-
6 ferred to in this section as the ‘period of
7 obligated service’) equal to—

8 “(I) 2 years or such longer pe-
9 riod as the individual may agree to
10 serve in the full-time practice of the
11 individual’s profession in an Indian
12 health program to which the indi-
13 vidual may be assigned by the Sec-
14 retary; or

15 “(II) 4 years or such longer pe-
16 riod as the individual may agree to
17 serve in the half-time practice of the
18 individual’s profession in an Indian
19 health program to which the indi-
20 vidual may be assigned by the Sec-
21 retary;”;

22 (3) in subsection (g)(2)—

23 (A) in subparagraph (B), by striking “(B)
24 Any arrangement” and inserting the following:

1 “(C) DEADLINE FOR REPAYMENTS.—Any
2 arrangement”;

3 (B) subparagraph (A), in the second sen-
4 tence of the matter preceding clause (i), by
5 striking “In making a determination” and in-
6 serting the following:

7 “(B) DETERMINATION OF AMOUNT OF
8 PAYMENT.—In making a determination under
9 this paragraph”; and

10 (C) by striking “(2)(A) For each year”
11 and all that follows through “paragraph (1).”
12 and inserting the following:

13 “(2) AUTHORIZED PAYMENTS.—

14 “(A) AMOUNT OF PAYMENT.—

15 “(i) FULL-TIME PRACTICE.—In the
16 case of an individual who contracts to
17 serve a period of obligated service under
18 subsection (f)(1)(B)(iii)(I), for each year of
19 the obligated service, the Secretary may
20 pay up to \$35,000 (or an amount equal to
21 the amount specified in section
22 338B(g)(2)(A) of the Public Health Serv-
23 ice Act (42 U.S.C. 2541–1(g)(2)(A))) on
24 behalf of the individual for loans described
25 in paragraph (1).

1 “(ii) HALF-TIME.—In the case of an
 2 individual who contracts to serve a period
 3 of obligated service under subsection
 4 (f)(1)(B)(iii)(II), for each year of such ob-
 5 ligated service, the Secretary may pay up
 6 to \$17,500 on behalf of the individual for
 7 loans described in paragraph (1).”.

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

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

12 **“SEC. 605. IMPROVEMENTS IN HIRING PRACTICES.**

13 “(a) DIRECT HIRE AUTHORITY.—The Secretary may
 14 appoint, without regard to subchapter I of chapter 33 of
 15 title 5, United States Code (other than sections 3303 and
 16 3328 of that title), a candidate directly to a position with-
 17 in the Service for which the candidate meets the qualifica-
 18 tions standard established by the Office of Personnel Man-
 19 agement.

20 “(b) TRIBAL NOTIFICATION.—

21 “(1) IN GENERAL.—Before appointing, hiring,
 22 promoting, transferring, or reassigning a candidate
 23 to a Senior Executive Service position or the position
 24 of a manager at an Area office or Service unit, the
 25 Secretary shall provide notice to each Indian tribe

1 located within the defined geographic area of the
2 Area office or Service unit, as applicable, of the con-
3 tent of an inclusion in an employment record.

4 “(2) COMMENT PERIOD.—Each Indian tribe
5 that receives notification under paragraph (1) may
6 submit to the Secretary comments during the 10-day
7 period after the date of notification.”.

8 (b) IHS WAIVERS.—Section 2(c) of Public Law 96–
9 135 (25 U.S.C. 5117(c)) is amended—

10 (1) in paragraph (2)—

11 (A) by striking “(2) The provisions” and
12 inserting the following:

13 “(2) APPLICATION TO CERTAIN INDIVIDUALS.—
14 The provisions”;

15 (B) by inserting “or (3)” after “paragraph
16 (1)”; and

17 (C) by striking “section 1131(f) of the
18 Education Amendments of 1978 (25 U.S.C.
19 2011(f); 92 Stat. 2324)” and inserting “section
20 1132(f) of the Education Amendments of 1978
21 (25 U.S.C. 2012(f))”;

22 (2) by striking “(c)(1) Notwithstanding” and
23 inserting the following:

24 “(c) WAIVER OF APPLICABILITY IN PERSONNEL AC-
25 TIONS.—

1 “(1) IN GENERAL.—Notwithstanding”; and
2 (3) by adding at the end the following:

3 “(3) IHS WAIVERS.—

4 “(A) IN GENERAL.—At the request of a
5 concerned Indian tribe, the Secretary of Health
6 and Human Services may seek from each In-
7 dian tribe concerned a waiver of Indian pref-
8 erence laws for a personnel action that is with
9 respect to—

10 “(i) a Service unit (as defined in sec-
11 tion 4 of the Indian Health Care Improve-
12 ment Act (25 U.S.C. 1603)) in which—

13 “(I) 15 percent or greater of the
14 total positions are not filled by a full-
15 time employee of the Indian Health
16 Service for a period of 6 months or
17 longer; or

18 “(II) 15 percent or greater of a
19 specific health professional position
20 are not filled by a full-time employee
21 of the Indian Health Service for a pe-
22 riod of 6 months or longer; or

23 “(ii) a former employee of the Indian
24 Health Service, or a former Tribal em-
25 ployee, who was removed from the employ-

ment during, or demoted for performance or misconduct that occurred during, the 5-year period following the date of the personnel action.

“(B) LIMITATION.—A waiver may only be requested under subparagraph (A) for a personnel action that is with respect to an employee described in clause (ii) of that subparagraph if the reason for the removal or demotion of the employee did not result from an action undertaken by the employee that was reported to the National Practitioner Data Bank.

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

SEC. 106. IMPROVED AUTHORITIES OF SECRETARY TO IMPROVE ACCOUNTABILITY OF SENIOR EXECUTIVES AND EMPLOYEES OF THE INDIAN HEALTH SERVICE.

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

1 **“SEC. 606. IMPROVED AUTHORITIES OF SECRETARY TO IM-**
2 **PROVE ACCOUNTABILITY OF SENIOR EXECU-**
3 **TIVES OF THE INDIAN HEALTH SERVICE.**

4 “(a) DEFINITIONS.—In this section:

5 “(1) COVERED INDIVIDUAL.—The term ‘cov-
6 ered individual’ means a career appointee (as de-
7 fined in section 3132(a) of title 5, United States
8 Code).

9 “(2) MISCONDUCT.—The term ‘misconduct’ in-
10 cludes—

11 “(A) neglect of duty;

12 “(B) malfeasance;

13 “(C) failure to accept a directed reassign-
14 ment; and

15 “(D) failure to accompany a position in a
16 transfer of function.

17 “(3) SECRETARY.—The term ‘Secretary’ means
18 the Secretary, acting through the Service.

19 “(4) SENIOR EXECUTIVE POSITION.—The term
20 ‘senior executive position’ means a Senior Executive
21 Service position (as defined in section 3132(a) of
22 title 5, United States Code).

23 “(b) AUTHORITY.—

24 “(1) IN GENERAL.—The Secretary may, in ac-
25 cordance with this section, reprimand, suspend, in-
26 voluntarily reassign, demote, or remove a covered in-

1 dividual from a senior executive position at the Serv-
2 ice if the Secretary determines that the misconduct
3 or performance of the covered individual warrants
4 such an action.

5 “(2) REMOVAL FROM CIVIL SERVICE.—If the
6 Secretary removes a covered individual pursuant to
7 paragraph (1), the Secretary may remove the indi-
8 vidual from the civil service (as defined in section
9 2101 of title 5, United States Code).

10 “(c) RIGHTS AND PROCEDURES.—

11 “(1) IN GENERAL.—A covered individual who is
12 the subject of an action or removal, as applicable,
13 under subsection (b) is entitled—

14 “(A) to advance notice of the action or re-
15 moval;

16 “(B) to access a file containing all evidence
17 in support of the proposed action or removal;

18 “(C) to be represented by an attorney or
19 other representative of the covered individual’s
20 choice; and

21 “(D) to grieve the decision on the action or
22 removal under paragraph (2) in accordance
23 with the internal grievance process established
24 by the Secretary under paragraph (3).

25 “(2) NOTICE; RESPONSE; DECISION.—

1 “(A) IN GENERAL.—The aggregate period
2 for notice, response, and decision on an action
3 or removal under subsection (b) may not exceed
4 15 business days.

5 “(B) RESPONSE.—A covered individual re-
6 ceiving a notice under paragraph (1)(A) of an
7 action or removal, as applicable, under sub-
8 section (b) shall have not more than 7 business
9 days to respond to the notice.

10 “(C) DECISION.—

11 “(i) IN GENERAL.—The Secretary
12 shall issue a decision on an action or re-
13 moval, as applicable, under subsection (b)
14 not later than 15 business days after the
15 date on which notice of the action or re-
16 moval, as applicable, is received by the ap-
17 plicable covered individual under para-
18 graph (1)(A).

19 “(ii) REQUIREMENTS.—A decision
20 under clause (i)—

21 “(I) shall be in writing; and

22 “(II) shall include the specific
23 reasons for the decision.

24 “(D) FINAL AND CONCLUSIVE DECISION.—

25 A decision under this paragraph that is not

1 grieved under paragraph (3) by the deadline de-
2 scribed in that paragraph shall be final and
3 conclusive.

4 “(3) GRIEVANCE PROCESS.—

5 “(A) IN GENERAL.—The Secretary shall
6 establish an internal grievance process under
7 which a covered individual may grieve a deci-
8 sion issued under paragraph (2) not later than
9 the date that is 7 business days after the date
10 on which the decision under that paragraph was
11 issued.

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

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

21 “(4) JUDICIAL REVIEW.—A covered individual
22 adversely affected by a decision under paragraph (2)
23 that is not grieved, or by a grievance decision under
24 paragraph (3), may obtain judicial review of the de-
25 cision.

1 “(5) COURT REVIEW.—In any case in which ju-
 2 dicial review is sought under paragraph (4), the
 3 court shall review the record and may set aside any
 4 action of the Department or the Service found to
 5 be—

6 “(A) arbitrary, capricious, an abuse of dis-
 7 cretion, or otherwise not in accordance with a
 8 provision of law;

9 “(B) obtained without procedures required
 10 by a provision of law having been followed; or

11 “(C) unsupported by substantial evidence.

12 “(d) RELATION TO OTHER PROVISIONS OF LAW.—
 13 Section 3592(b)(1) of title 5, United States Code, shall
 14 not apply to an action under subsection (b).

15 **“SEC. 607. IMPROVED AUTHORITIES OF SECRETARY TO IM-**
 16 **PROVE ACCOUNTABILITY OF EMPLOYEES OF**
 17 **THE INDIAN HEALTH SERVICE.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) COVERED INDIVIDUAL.—

20 “(A) IN GENERAL.—The term ‘covered in-
 21 dividual’ means an individual occupying a posi-
 22 tion at the Service.

23 “(B) EXCLUSIONS.—The term ‘covered in-
 24 dividual’ does not include—

1 “(i) an individual occupying a senior
2 executive position (as defined in section
3 606(a));

4 “(ii) an individual who has not com-
5 pleted a probationary or trial period; or

6 “(iii) a political appointee.

7 “(2) GRADE.—The term ‘grade’ has the mean-
8 ing given the term in section 7511(a) of title 5,
9 United States Code.

10 “(3) MISCONDUCT.—The term ‘misconduct’ in-
11 cludes—

12 “(A) neglect of duty;

13 “(B) malfeasance;

14 “(C) failure to accept a directed reassign-
15 ment; and

16 “(D) failure to accompany a position in a
17 transfer of function.

18 “(4) POLITICAL APPOINTEE.—The term ‘polit-
19 ical appointee’ means an individual who is—

20 “(A) employed in a position described in
21 any of sections 5312 through 5316 of title 5,
22 United States Code (relating to the Executive
23 Schedule);

24 “(B) a limited term appointee, limited
25 emergency appointee, or noncareer appointee

1 (as those terms are defined in section 3132(a)
2 of title 5, United States Code); or

3 “(C) employed in a position of a confiden-
4 tial or policy-determining character under
5 schedule C of subpart C of part 213 of title 5,
6 Code of Federal Regulations (or a successor
7 regulation).

8 “(5) SECRETARY.—The term ‘Secretary’ means
9 the Secretary, acting through the Service.

10 “(6) SUSPEND.—The term ‘suspend’ means the
11 placing of an employee, for disciplinary reasons, in
12 a temporary status without duties and pay for a pe-
13 riod in excess of 14 days.

14 “(b) AUTHORITY.—

15 “(1) IN GENERAL.—The Secretary may, in ac-
16 cordance with this section, remove, demote, or sus-
17 pend a covered individual from employment at the
18 Service if the Secretary determines that the perform-
19 ance or misconduct of the covered individual war-
20 rants such an action.

21 “(2) ACTIONS.—If the Secretary removes, de-
22 motes, or suspends a covered individual pursuant to
23 paragraph (1), the Secretary may—

1 “(A) remove the covered individual from
2 the civil service (as defined in section 2101 of
3 title 5, United States Code);

4 “(B) demote the covered individual by
5 means of—

6 “(i) a reduction in grade for which the
7 covered individual is qualified, as the Sec-
8 retary determines appropriate; and

9 “(ii) a reduction of the annual rate of
10 pay of the covered individual; or

11 “(C) suspend the covered individual from
12 the civil service (as defined in section 2101 of
13 title 5, United States Code).

14 “(c) PAY OF CERTAIN DEMOTED INDIVIDUALS.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of law, any covered individual subject to a
17 demotion by means of a reduction in grade under
18 subsection (b)(2)(B) shall, beginning on the date of
19 the demotion, receive the annual rate of pay applica-
20 ble to the reduced grade.

21 “(2) RESTRICTIONS.—

22 “(A) PROHIBITION ON ADMINISTRATIVE
23 LEAVE.—A covered individual subject to a de-
24 motion under subsection (b)(2)(B)—

1 “(i) may not be placed on administra-
 2 tive leave during the period during which
 3 an appeal (if any) under this section is on-
 4 going; and

5 “(ii) may only receive pay if the cov-
 6 ered individual reports for duty or is ap-
 7 proved to use accrued unused annual, sick,
 8 family medical, military, or court leave.

9 “(B) RESTRICTION ON PAY AND BENE-
 10 FITS.—If a covered individual subject to a de-
 11 motion under subsection (b)(2)(B) does not re-
 12 port for duty (and has not received approval to
 13 use accrued unused leave under subparagraph
 14 (A)(ii)), the covered individual shall not receive
 15 pay or other benefits pursuant to subsection
 16 (e)(7).

17 “(d) RIGHTS AND PROCEDURES.—

18 “(1) IN GENERAL.—A covered individual who is
 19 the subject of an action or removal, as applicable,
 20 under subsection (b) is entitled—

21 “(A) to advance notice of the action or re-
 22 moval;

23 “(B) to access a file containing all evidence
 24 in support of the proposed action or removal;

1 “(C) to be represented by an attorney or
2 other representative of the covered individual’s
3 choice; and

4 “(D) to grieve the decision on the action or
5 removal under paragraph (2) in accordance
6 with the internal grievance process established
7 by the Secretary under paragraph (3).

8 “(2) NOTICE; RESPONSE; DECISION.—

9 “(A) AGGREGATE PERIOD.—The aggregate
10 period for notice, response, and a final decision
11 on an action under subsection (b) may not ex-
12 ceed 15 business days.

13 “(B) RESPONSE.—A covered individual re-
14 ceiving a notice under paragraph (1)(A) of an
15 action or removal under subsection (b) shall
16 have not more than 7 business days to respond
17 to the notice.

18 “(C) FINAL AND CONCLUSIVE DECISION.—

19 “(i) IN GENERAL.—The Secretary
20 shall issue a final and conclusive decision
21 on an action or removal under subsection
22 (b) not later than 15 business days after
23 the date on which the notice of the action
24 is received by the applicable covered indi-
25 vidual under paragraph (1)(A).

1 “(ii) REQUIREMENTS.—A decision
2 under clause (i)—

3 “(I) shall be in writing; and

4 “(II) shall include the specific
5 reasons for the decision.

6 “(3) GRIEVANCE PROCESS.—

7 “(A) IN GENERAL.—The Secretary shall
8 establish an internal grievance process under
9 which a covered individual may grieve a deci-
10 sion issued under paragraph (2) not later than
11 the date that is 7 business days after the date
12 on which the decision under that paragraph was
13 issued.

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

20 “(C) FINAL AND CONCLUSIVE DECISION.—

21 A grievance decision under this paragraph shall
22 be final and conclusive.

23 “(4) PROCEDURES SUPERSEDING CBAS.—The
24 procedures under this subsection shall supersede any
25 collective bargaining agreement to the extent that

1 such an agreement is inconsistent with the proce-
2 dures.

3 “(5) PERFORMANCE APPRAISAL.—The proce-
4 dures under chapter 43 of title 5, United States
5 Code, shall not apply to an action under subsection
6 (b).

7 “(6) APPEAL TO MERIT SYSTEMS PROTECTION
8 BOARD.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B) and subsection (e), any removal, de-
11 motion, or suspension of more than 14 days
12 under subsection (b) may be appealed to the
13 Merit Systems Protection Board, which shall
14 refer such appeal to an administrative law
15 judge pursuant to section 7701(b)(1) of title 5,
16 United States Code.

17 “(B) TIME PERIOD.—An appeal under
18 subparagraph (A) of a removal, demotion, or
19 suspension may only be made if the appeal is
20 made not later than 10 business days after the
21 date of the removal, demotion, or suspension.

22 “(e) EXPEDITED REVIEW.—

23 “(1) IN GENERAL.—On receipt of an appeal
24 under subsection (d)(6)(A), the applicable adminis-
25 trative law judge shall—

1 “(A) expedite the appeal under section
2 7701(b)(1) of title 5, United States Code; and

3 “(B) issue a final and complete decision on
4 the appeal not later than 180 days after the
5 date of the appeal.

6 “(2) UPHOLDING DECISION.—

7 “(A) IN GENERAL.—Notwithstanding sec-
8 tion 7701(c)(1)(B) of title 5, United States
9 Code, the administrative law judge shall uphold
10 the decision of the Secretary to remove, demote,
11 or suspend an employee under subsection (b) if
12 the decision is supported by substantial evi-
13 dence.

14 “(B) PROHIBITION OF MITIGATION.—Not-
15 withstanding title 5, United States Code, or any
16 other provision of law, if the decision of the
17 Secretary to remove, demote, or suspend an em-
18 ployee under subsection (b) is supported by
19 substantial evidence, the administrative law
20 judge shall not mitigate the penalty prescribed
21 by the Secretary.

22 “(3) APPEAL TO MERIT SYSTEMS PROTECTION
23 BOARD.—

24 “(A) IN GENERAL.—The decision of the
25 administrative law judge under paragraph (1)

1 may be appealed to the Merit Systems Protec-
2 tion Board.

3 “(B) UPHOLDING DECISION.—Notwith-
4 standing section 7701(c)(1)(B) of title 5,
5 United States Code, the Merit Systems Protec-
6 tion Board shall uphold the decision of the Sec-
7 retary to remove, demote, or suspend an em-
8 ployee under subsection (b) if the decision is
9 supported by substantial evidence.

10 “(C) PROHIBITION OF MITIGATION.—Not-
11 withstanding title 5, United States Code, or any
12 other provision of law, if the decision of the
13 Secretary is supported by substantial evidence,
14 the Merit Systems Protection Board shall not
15 mitigate the penalty prescribed by the Sec-
16 retary.

17 “(4) REPORT.—In any case in which an admin-
18 istrative law judge cannot issue a final and complete
19 decision by the deadline described in paragraph
20 (1)(B), the Merit Systems Protection Board shall,
21 not later than 14 business days after the deadline
22 expires, submit to the appropriate committees of
23 Congress a report that explains the reasons why a
24 decision was not issued by the deadline.

1 “(5) APPEAL.—A decision of the Merit Systems
2 Protection Board under paragraph (3) may be ap-
3 pealed to the United States Court of Appeals for the
4 Federal Circuit pursuant to section 7703 of title 5,
5 United States Code, or to any court of appeals of
6 competent jurisdiction pursuant to subsection
7 (b)(1)(B) of that section.

8 “(6) PROHIBITION AGAINST STAYS.—The Merit
9 Systems Protection Board may not stay any removal
10 or demotion under subsection (b), except as provided
11 in section 1214(b) of title 5, United States Code.

12 “(7) RESTRICTION ON PAY AND BENEFITS DUR-
13 ING APPEAL.—

14 “(A) IN GENERAL.—

15 “(i) RESTRICTION ON PAY AND BENE-
16 FITS.—During the period described in
17 clause (ii), a covered individual may not re-
18 ceive any pay and benefits described in
19 subparagraph (B).

20 “(ii) PERIOD DESCRIBED.—The pe-
21 riod referred to in clause (i) is the pe-
22 riod—

23 “(I) beginning on the date on
24 which a covered individual appeals
25 under this section a removal from the

1 civil service under subsection
2 (b)(2)(A); and

3 “(II) ending on the later of—

4 “(aa) the date on which the
5 Merit Systems Protection Board
6 issues a final decision on the ap-
7 peal under paragraph (3); and

8 “(bb) the date on which the
9 United States Court of Appeals
10 for the Federal Circuit issues a
11 final decision on the appeal
12 under paragraph (5).

13 “(B) PAY AND BENEFITS DESCRIBED.—

14 The pay and benefits referred to in subpara-
15 graph (A)(i) are any pay, awards, bonuses, in-
16 centives, allowances, differentials, student loan
17 repayments, special payments, or benefits re-
18 lated to the employment of the individual by the
19 Service.

20 “(8) INFORMATION TO EXPEDITE APPEAL.—To
21 the maximum extent practicable, the Secretary shall
22 provide to the Merit Systems Protection Board such
23 information and assistance as may be necessary to
24 ensure an appeal under this subsection is expedited.

1 “(9) BACKPAY.—If an employee prevails on ap-
2 peal under this section, the employee shall be enti-
3 tled to backpay (as provided in section 5596 of title
4 5, United States Code).

5 “(10) APPLICABLE TIMELINES AND PROCE-
6 DURES.—If an employee who is subject to a collec-
7 tive bargaining agreement chooses to grieve an ac-
8 tion taken under this section through a grievance
9 procedure provided under the collective bargaining
10 agreement, the timelines and procedures described in
11 subsection (d) and this subsection shall apply.

12 “(f) ALLEGED PROHIBITED PERSONNEL PRAC-
13 TICE.—In the case of a covered individual seeking correc-
14 tive action (or on behalf of whom corrective action is
15 sought) from the Office of Special Counsel based on an
16 alleged prohibited personnel practice described in section
17 2302(b) of title 5, United States Code, the Secretary may
18 not remove, demote, or suspend the covered individual
19 under subsection (b) without the approval of the Special
20 Counsel under section 1214(f) of title 5, United States
21 Code.

22 “(g) TERMINATION OF INVESTIGATIONS BY OFFICE
23 OF SPECIAL COUNSEL.—

24 “(1) IN GENERAL.—Notwithstanding any other
25 provision of law, the Special Counsel established by

1 section 1211 of title 5, United States Code, may ter-
2minate an investigation of a prohibited personnel
3practice alleged by an employee or former employee
4of the Service after the Special Counsel provides to
5the employee or former employee a written state-
6ment of the reasons for the termination of the inves-
7tigation.

8 “(2) ADMISSIBILITY.—The statement described
9 in paragraph (1) may not be admissible as evidence
10 in any judicial or administrative proceeding without
11 the consent of the employee or former employee de-
12 scribed in paragraph (1).

13 “(h) VACANCIES.—In the case of a covered individual
14 who is removed or demoted under subsection (b), to the
15 maximum extent practicable, the Secretary shall fill the
16 vacancy arising as a result of the removal or demotion.”.

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

19 (1) in paragraph (3), by striking “or” at the
20 end;

21 (2) in paragraph (4), by striking the period at
22 the end and inserting “, or”; and

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

24 “(5) any removal or demotion under section
25 607 of the Indian Health Care Improvement Act.”.

1 (c) REPORT.—Not later than 18 months after the
2 date of enactment of this Act, the Secretary of Health and
3 Human Services or the Inspector General of the Depart-
4 ment of Health and Human Services, as appropriate, shall
5 submit to Congress a report that includes information
6 on—

7 (1) the number of employees of the Indian
8 Health Service who were removed, demoted, or sus-
9 pended during the 1-year period preceding the date
10 of enactment of this Act;

11 (2) the number of employees of the Indian
12 Health Service who were removed, demoted, or sus-
13 pended during the 1-year period beginning on the
14 date of enactment of this Act pursuant to the
15 amendments made by this section; and

16 (3) the appropriate details of any such remov-
17 als, demotions, and suspensions that lend necessary
18 context.

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

20 Section 113 of the Indian Health Care Improvement
21 Act (25 U.S.C. 1616f) is amended—

22 (1) in subsection (a)—

23 (A) by striking “a program” and inserting
24 “an annual mandatory training program”; and

1 (B) by striking “appropriate employees of
2 the Service” and inserting “employees of the
3 Service, locum tenens medical providers,
4 healthcare volunteers, and other contracted em-
5 ployees who work at Service hospitals or other
6 Service units and whose employment requires
7 regular direct patient access”; and

8 (2) by adding at the end the following:

9 “(c) REQUIREMENT TO COMPLETE TRAINING PRO-
10 GRAM.—Notwithstanding any other provision of law, be-
11 ginning on the date of enactment of the Restoring Ac-
12 countability in the Indian Health Service Act of 2022,
13 each employee or provider described in subsection (a) who
14 enters into a contract with the Service shall, as a condition
15 of employment, annually participate in and complete the
16 program established under subsection (a).”.

17 **SEC. 108. STAFFING DEMONSTRATION PROGRAM.**

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

21 **“SEC. 833. STAFFING DEMONSTRATION PROGRAM.**

22 “(a) IN GENERAL.—Not later than 1 year after the
23 date of enactment of the Restoring Accountability in the
24 Indian Health Service Act of 2022, the Secretary, acting
25 through the Service (referred to in this section as the ‘Sec-

1 retary’), shall establish a demonstration program (referred
2 to in this section as the ‘demonstration program’) under
3 which the Service may provide Service units with addi-
4 tional staffing resources, with the goal that the resources
5 become self-sustaining.

6 “(b) SELECTION.—In selecting Service units for par-
7 ticipation in the demonstration program, the Secretary
8 shall consider whether a Service unit services an Indian
9 tribe that—

10 “(1) has utilized or contributed substantial
11 Tribal funds to construct a health facility used by
12 the Service or identified in the master plan for the
13 Service unit;

14 “(2) is located in 1 or more States with Med-
15 icaid reimbursements plans or policies that will in-
16 crease the likelihood that the staffing resources pro-
17 vided will be self-sustaining; and

18 “(3) is operating a health facility described in
19 paragraph (1) under historical staffing ratios, as de-
20 termined by the Secretary, that have not been equal-
21 ized or updated by the Service or any other Service
22 program to reflect current staffing needs.

23 “(c) DURATION.—Staffing resources provided to a
24 Service unit under the demonstration program shall be
25 provided for a duration that the Secretary, in consultation

1 with the applicable Indian tribe, determines appropriate,
2 on the condition that each staffing position provided shall
3 be for a period of not less than 3 fiscal years.

4 “(d) EFFECT OF STAFFING AWARDS.—No staffing
5 resources provided under the demonstration program shall
6 reduce the recurring base funding for staffing for any In-
7 dian tribe or Service unit.

8 “(e) SUNSET.—The demonstration program estab-
9 lished under subsection (a) shall terminate on the date
10 that is 4 years after the date on which the demonstration
11 program is established.

12 “(f) REPORT.—Not later than 1 year after the date
13 on which the demonstration program terminates under
14 subsection (e), the Secretary shall submit to the Com-
15 mittee on Indian Affairs and the Committee on Health,
16 Education, Labor, and Pensions of the Senate and the
17 Committee on Natural Resources and the Committee on
18 Energy and Commerce of the House of Representatives
19 a report describing the demonstration program, including
20 information on—

21 “(1) whether the staffing resources provided
22 under the demonstration program resulted in addi-
23 tional revenue for the applicable Service unit suffi-
24 cient to maintain the staff on a permanent basis;

1 “(2) the levels to which the staffing resources
2 provided under the demonstration program reduced
3 the unmet staffing need for the applicable Service
4 unit; and

5 “(3) whether the demonstration program could
6 be deployed permanently to reduce unmet staffing
7 needs throughout the Service.”.

8 **SEC. 109. RULE ESTABLISHING TRIBAL CONSULTATION**
9 **POLICY.**

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

13 **“SEC. 834. RULE ESTABLISHING TRIBAL CONSULTATION**
14 **POLICY.**

15 “(a) IN GENERAL.—Not later than December 31,
16 2023, the Secretary shall establish, and once every 5 years
17 thereafter, the Secretary shall update, after meaningful
18 consultation with representatives of affected Indian tribes,
19 a rule establishing a Tribal consultation policy for the
20 Service.

21 “(b) CONTENTS OF TRIBAL CONSULTATION POL-
22 ICY.—The policy established under the rule under sub-
23 section (a) shall—

1 “(1) update, and replace, the Tribal consulta-
2 tion policy established under Circular No. 2006–01
3 of the Service (or any successor policy); and

4 “(2) include—

5 “(A) a process for determining when and
6 how the Service will notify Indian tribes of the
7 availability of meaningful consultation;

8 “(B) a determination of which actions or
9 agency decisions by the Service will trigger a re-
10 quirement for meaningful consultation with In-
11 dian tribes; and

12 “(C) a determination of which actions con-
13 stitute meaningful consultation with Indian
14 tribes.”.

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

16 The “Parallel Low-Volume Hospital Payment Adjust-
17 ment Regarding Hospitals Operated by the Indian Health
18 Services (IHS) or a Tribe” provisions described in the
19 final rule of the Centers for Medicare & Medicaid Services
20 entitled “Medicare Program; Hospital Inpatient Prospec-
21 tive Payment Systems for Acute Care Hospitals and the
22 Long-Term Care Hospital Prospective Payment System
23 and Policy Changes and Fiscal Year 2018 Rates; Quality
24 Reporting Requirements for Specific Providers; Medicare
25 and Medicaid Electronic Health Record (EHR) Incentive

1 Program Requirements for Eligible Hospitals, Critical Ac-
 2 cess Hospitals, and Eligible Professionals; Provider-Based
 3 Status of Indian Health Service and Tribal Facilities and
 4 Organizations; Costs Reporting and Provider Require-
 5 ments; Agreement Termination Notices” (82 Fed Reg.
 6 37990; 38188–38189 (August 14, 2017)), shall apply with
 7 respect to discharges occurring in fiscal year 2011 and
 8 each fiscal year thereafter.

9 **SEC. 111. ENHANCING QUALITY OF CARE IN THE INDIAN**
 10 **HEALTH SERVICE.**

11 (a) IHCLA DEFINITIONS.—In this section, the terms
 12 “Area office”, “Indian tribe”, “Secretary”, “Service”,
 13 “Service unit”, “tribal organization”, and “Urban Indian
 14 organization” have the meanings given those terms in sec-
 15 tion 4 of the Indian Health Care Improvement Act (25
 16 U.S.C. 1603).

17 (b) BEST PRACTICES FOR GOVERNING BOARD AND
 18 AREA OFFICE MEETINGS.—

19 (1) DEFINITION OF GOVERNING BOARD.—In
 20 this subsection, the term “governing board” means
 21 the governing board of the facility of a Service unit.

22 (2) IN GENERAL.—Not later than 1 year after
 23 the date of enactment of this Act, the Secretary, in
 24 consultation with Indian tribes, governing boards,
 25 Area offices, Service units, and other stakeholders,

1 as determined appropriate by the Secretary, shall es-
2 tablish—

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

5 (B) in accordance with paragraph (3)(B),
6 best practices for Area offices.

7 (3) REQUIREMENTS.—

8 (A) GOVERNING BOARD BEST PRAC-
9 TICES.—The best practices for governing
10 boards established under paragraph (2)(A) shall
11 include provisions relating to—

12 (i) adequately monitoring the delivery
13 of care at the applicable facility managed
14 by the governing board;

15 (ii) ensuring ongoing facility compli-
16 ance with Federal health care program re-
17 quirements, including requirements of the
18 Service and the Centers for Medicare &
19 Medicaid Services;

20 (iii) handling, documenting, and re-
21 sponding to patient complaints;

22 (iv) documenting, addressing, and, if
23 applicable, reporting instances of profes-
24 sional misconduct by facility staff in ac-

1 cordance with applicable Federal and State
2 law;

3 (v) improving facility performance and
4 operations with respect to mandatory and
5 voluntary quality initiatives carried out by
6 the Service and the Centers for Medicare &
7 Medicaid Services; and

8 (vi) reporting requirements under
9 Federal law, including with respect to—

10 (I) the Government Performance
11 and Results Act of 1993 (Public Law
12 103–62; 107 Stat. 285), the GPRA
13 Modernization Act of 2010 (Public
14 Law 111–352; 124 Stat. 3866), and
15 the amendments made by those Acts;
16 and

17 (II) the applicable provisions of
18 titles XVIII and XIX of the Social Se-
19 curity Act (42 U.S.C. 1395 et seq.,
20 1396 et seq.).

21 (B) AREA OFFICE BEST PRACTICES.—The
22 best practices for Area offices established under
23 paragraph (2)(B) shall include provisions relat-
24 ing to—

1 (i) strategies for how to best monitor
2 governing board activities relating to the
3 oversight of—

4 (I) delivery and quality of patient
5 care;

6 (II) documenting and responding
7 to patient complaints and instances of
8 professional misconduct; and

9 (III) facility compliance with
10 Federal health care program require-
11 ments, including requirements of the
12 Service and the Centers for Medicare
13 & Medicaid Services; and

14 (ii) connecting governing boards, in-
15 cluding the applicable facilities of those
16 governing boards, to resources necessary
17 for enhancing patient outcomes and im-
18 proving facility performance, including
19 through the use of technical assistance.

20 (4) PUBLICATION.—The best practices estab-
21 lished under paragraph (2) shall be—

22 (A) reported to, in writing, as applicable,
23 all governing boards and Area offices; and

24 (B) incorporated into the Indian Health
25 Manual of the Service.

1 (c) REVIEW OF QUALITY AND PERFORMANCE MEAS-
2 URES.—

3 (1) REVIEW.—

4 (A) IN GENERAL.—Not later than 1 year
5 after the date of enactment of this Act, the Sec-
6 retary, in coordination with the Agency for
7 Healthcare Research and Quality, the National
8 Quality Forum, Indian tribes, practitioners and
9 administrators of the Service, and other quali-
10 fied experts, as determined appropriate by the
11 Secretary, shall undertake a review of the re-
12 ported quality and performance measures of
13 Service facilities conducted by the Secretary in
14 accordance with—

15 (i) section 306 of title 5, United
16 States Code;

17 (ii) section 1115(b) of title 31, United
18 States Code; and

19 (iii) any law (including regulations)
20 used in any mandatory or voluntary pro-
21 gram of the Centers for Medicare & Med-
22 icaid Services.

23 (B) REPORT.—Not later than 6 months
24 after the date on which the review required
25 under subparagraph (A) is completed, the Sec-

1 retary shall submit to Congress a report on the
2 details and findings of that review, which shall
3 include an assessment of—

4 (i) the suitability of measures used as
5 of the date of enactment of this Act for the
6 applicable Service facility, taking into con-
7 sideration the patient volume of the facil-
8 ity, the mix of patient cases at the facility,
9 the geographic location of the facility, and
10 medical professional shortage designations
11 at the facility, as determined by the Sec-
12 retary; and

13 (ii) the extent to which the perform-
14 ance and quality measures are outcome-
15 based or process-based measures.

16 (2) ADOPTION.—Not later than 1 year after the
17 date on which the report required under paragraph
18 (1)(B) is submitted to Congress, the Service, in co-
19 ordination with the Centers for Medicare & Medicaid
20 Services, shall adopt, and assist Service facilities to
21 adopt, to the extent practicable, more suitable, as
22 compared to those quality and performance meas-
23 ures adopted prior to the submission of that report,
24 quality and performance measures, including meas-
25 ures that are more outcome-based and process-

1 based, in accordance with the factors described in
2 paragraph (1)(B)(i).

3 (3) GAO REPORT.—Not later than 1 year after
4 the date on which the report required under para-
5 graph (1)(B) is submitted to Congress, the Comp-
6 troller General of the United States shall submit to
7 Congress a report on challenges relating to quality
8 measure and data collection in Service facilities,
9 which shall include—

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

13 (B) recommendations for how the Service,
14 other Federal agencies, and stakeholders can
15 assist Service facilities in adopting suitable
16 quality and performance measures.

17 (d) COMPLIANCE ASSISTANCE PROGRAM.—

18 (1) DEFINITIONS.—In this subsection:

19 (A) ADMINISTRATOR.—The term “Admin-
20 istrator” means the Administrator of the Cen-
21 ters for Medicare & Medicaid Services.

22 (B) ELIGIBLE FACILITY.—

23 (i) IN GENERAL.—The term “eligible
24 facility” means a facility operated by the
25 Service that—

1 (I) is an underperforming hos-
2 pital or outpatient facility; and

3 (II) is eligible for payments
4 under title XVIII of the Social Secu-
5 rity Act (42 U.S.C. 1395 et seq.).

6 (ii) INCLUSION.—The term “eligible
7 facility” includes a tribally operated facil-
8 ity, if that facility consents to participating
9 in the program.

10 (C) PROGRAM.—The term “program”
11 means the compliance assistance program es-
12 tablished under paragraph (2).

13 (D) TRIBALLY OPERATED FACILITY.—The
14 term “tribally operated facility” means a facil-
15 ity operated by an Indian tribe, a tribal organi-
16 zation, or an Urban Indian organization that—

17 (i) is an underperforming hospital or
18 outpatient facility; and

19 (ii) is eligible for payments under title
20 XVIII of the Social Security Act (42
21 U.S.C. 1395 et seq.).

22 (2) ESTABLISHMENT OF PROGRAM.—Not later
23 than 1 year after the date of enactment of this Act,
24 the Secretary, in coordination with the Adminis-
25 trator and quality improvement organizations having

1 a contract with the Secretary under part B of title
2 XI of the Social Security Act (42 U.S.C. 1320c et
3 seq.), shall establish a compliance assistance pro-
4 gram for eligible facilities.

5 (3) METHODOLOGY.—The Secretary shall es-
6 tablish a methodology for determining which eligible
7 facilities shall participate in the program, which
8 shall take into account the following factors:

9 (A) The number and severity of facility de-
10 ficiencies with respect to applicable require-
11 ments under title XVIII of the Social Security
12 Act (42 U.S.C. 1395 et seq.).

13 (B) The history of provider misconduct or
14 patient harm at the facility.

15 (C) Whether there is high staff turnover at
16 the facility.

17 (D) Whether the facility has low perform-
18 ance on program quality measures, relative to
19 other facilities of the Service, in accordance
20 with reported quality and performance meas-
21 ures conducted by the Secretary in accordance
22 with—

23 (i) section 306 of title 5, United
24 States Code;

1 (ii) section 1115(b) of title 31, United
2 States Code; and

3 (iii) any law (including regulations)
4 used in any mandatory or voluntary pro-
5 gram of the Centers for Medicare & Med-
6 icaid Services.

7 (4) SELECTION OF FACILITIES.—

8 (A) IN GENERAL.—The Secretary, in co-
9 ordination with the Administrator, shall select
10 not less than 25 percent of the eligible facilities
11 to participate in the program using the method-
12 ology established under paragraph (3).

13 (B) PARTICIPATION.—

14 (i) IN GENERAL.—An eligible facility
15 selected to participate in the program
16 under subparagraph (A) shall be required
17 to participate in the program.

18 (ii) REQUIREMENT.—The Secretary
19 shall ensure that, at all times during the
20 period beginning on the date of establish-
21 ment of the program and the date on
22 which the program terminates under para-
23 graph (8), not less than 25 percent of eli-
24 gible facilities are participating in the pro-
25 gram.

1 (C) TERM OF PARTICIPATION.—

2 (i) IN GENERAL.—Subject to clause
3 (ii), an eligible facility selected to partici-
4 pate in the program under subparagraph
5 (A) shall participate in the program for a
6 period of 2 years.

7 (ii) WAIVER.—If the Secretary, in co-
8 ordination with the Administrator, certifies
9 that an eligible facility participating in the
10 program has improved on its performance
11 to a satisfactory level, as determined by
12 the Secretary, then the eligible facility does
13 not have to participate in the program for
14 the full 2-year period.

15 (D) PARTICIPATION LIMIT.—An eligible fa-
16 cility may participate in the program for more
17 than 1 2-year period.

18 (5) PROGRAM COMPONENTS.—The program
19 shall provide on-site consultation and educational
20 programming for eligible facilities to ensure those el-
21 igible facilities are—

22 (A) meeting Federal requirements of the
23 Service and any conditions of participation ap-
24 plicable under title XVIII of the Social Security
25 Act (42 U.S.C. 1395 et seq.); and

1 (B) satisfactorily implementing any quality
2 initiatives and programs established by the
3 Service or the Centers for Medicare & Medicaid
4 Services.

5 (6) ENFORCEMENT OR NONCOMPLIANCE AC-
6 TIONS.—

7 (A) IN GENERAL.—The program shall be
8 conducted independently of any enforcement ac-
9 tions under the Indian Health Care Improve-
10 ment Act (25 U.S.C. 1601 et seq.) or non-
11 compliance actions taken by the Administrator
12 with respect to noncompliance with conditions
13 of participation applicable under title XVIII of
14 the Social Security Act (42 U.S.C. 1395 et
15 seq.), unless, while carrying out the program,
16 the Secretary or the Administrator, as applica-
17 ble, encounters a triggering event, as deter-
18 mined by the Secretary or the Administrator, as
19 applicable, that would necessitate an enforce-
20 ment action or noncompliance action.

21 (B) TRIGGERING EVENT ENCOUNTERED.—
22 If a triggering event is encountered by the Sec-
23 retary or Administrator under subparagraph
24 (A), the eligible facility shall continue to partici-
25 pate in the program so long as the facility—

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

4 (ii) continues to meet all of the condi-
5 tions and requirements for such payments
6 which are applicable under such title.

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

12 (8) SUNSET.—The program shall terminate 6
13 years after the date on which the program is estab-
14 lished.

15 (9) REPORT.—Not later than 1 year after the
16 date on which the program terminates under para-
17 graph (8), the Comptroller General of the United
18 States shall submit to Congress a report evaluating
19 the effectiveness of the program, which shall include,
20 to the extent practicable—

21 (A) detailed data on changes in the patient
22 experience at eligible facilities that participated
23 in the program;

24 (B) a description of the compliance status
25 of eligible facilities that participated in the pro-

1 gram with requirements of the Service and any
2 conditions of participation applicable under title
3 XVIII of the Social Security Act (42 U.S.C.
4 1395 et seq.); and

5 (C) a description of the progress by eligible
6 facilities that participated in the program in
7 meeting the goals of quality improvement activi-
8 ties of the Department of Health and Human
9 Services.

10 **SEC. 112. NOTIFICATION OF INVESTIGATION REGARDING**
11 **PROFESSIONAL CONDUCT; SUBMISSION OF**
12 **RECORDS.**

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

16 **“SEC. 835. NOTIFICATION OF INVESTIGATION REGARDING**
17 **PROFESSIONAL CONDUCT; SUBMISSION OF**
18 **RECORDS.**

19 “(a) REPORT.—Not later than 14 calendar days after
20 the date on which the Service undertakes an investigation
21 into the professional conduct of a licensee of a State, the
22 Secretary, acting through the Service, shall notify the rel-
23 evant State medical board of the investigation.

24 “(b) SUBMISSION OF RECORDS.—Not later than 14
25 calendar days after the date on which the Service gen-

1 erates records relating to an investigation conducted by
 2 the Service into the professional conduct of a licensee of
 3 a State, the Secretary, acting through the Service, shall
 4 provide the records to the relevant State medical board.”.

5 **SEC. 113. MEDICAL CHAPERONES; OFFICE OF PATIENT AD-**
 6 **VOCACY.**

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

10 **“SEC. 224. MEDICAL CHAPERONES.**

11 “(a) INDIAN HEALTH SERVICE.—

12 “(1) IN GENERAL.—The Secretary, acting
 13 through the Service, shall, at the request of a pa-
 14 tient of the Service, provide to the patient a medical
 15 chaperone, to be present during any medical exam-
 16 ination of the patient provided by or through the
 17 Service.

18 “(2) REQUIREMENTS.—The Secretary, acting
 19 through the Service, shall—

20 “(A) notify patients of the Service of the
 21 right to have a medical chaperone present dur-
 22 ing a medical examination provided by or
 23 through the Service; and

1 “(B) ensure that the right described in
2 subparagraph (A) is provided to each patient in
3 each Service unit.

4 “(b) OTHER PROVIDERS OF SERVICES.—An Indian
5 tribe, tribal organization, or any other Indian health pro-
6 gram may use amounts made available under this Act to
7 provide, at the request of a patient to whom the Indian
8 tribe, tribal organization, or Indian health program is pro-
9 viding health care services, a medical chaperone to the pa-
10 tient, to be present during any medical examination of the
11 patient provided by the Indian tribe or tribal organiza-
12 tion.”.

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

17 **“SEC. 608. OFFICE OF PATIENT ADVOCACY.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) DIRECTOR.—The term ‘Director’ means
20 the Director of the Office.

21 “(2) OFFICE.—The term ‘Office’ means the Of-
22 fice of Patient Advocacy established by subsection
23 (b).

1 “(b) ESTABLISHMENT.—There is established within
2 the Department an office, to be known as the ‘Office of
3 Patient Advocacy’.

4 “(c) DIRECTOR.—The Office shall be headed by a Di-
5 rector, who shall—

6 “(1) be appointed by the Secretary from among
7 individuals qualified to perform the duties of the po-
8 sition; and

9 “(2) report directly to the Secretary.

10 “(d) DUTIES.—

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

14 “(A) employ patient advocates to advocate
15 on behalf of Indians with respect to health care
16 services sought or received through the Service;

17 “(B) provide to those patient advocates
18 training to ensure the advocates carry out the
19 responsibilities described in paragraph (2); and

20 “(C) in as many prominent locations as
21 the Director determines to be appropriate to be
22 seen by the largest percentage of patients and
23 family members of patients at each Service
24 unit, display—

1 “(i) the purposes of the patient advoca-
2 cacy program;

3 “(ii) the contact information for a pa-
4 tient advocate employed at the Service
5 unit; and

6 “(iii) a description of the rights and
7 responsibilities of patients and family
8 members of patients at the Service unit.

9 “(2) PATIENT ADVOCATE RESPONSIBILITIES.—
10 The responsibilities of a patient advocate employed
11 by the Office shall include the following:

12 “(A) Resolving any complaints by Indian
13 patients with respect to health care services
14 provided by or through the Service that cannot
15 be resolved at—

16 “(i) the point of service; or

17 “(ii) a higher level easily accessible to
18 the patient.

19 “(B) Expressing to Indians their rights
20 and responsibilities as patients in receiving
21 health care services through the Service.

22 “(C) Presenting at various meetings, and
23 to various committees, a description of any
24 issues experienced by Indians in receiving
25 health care services through the Service.

1 “(D) Managing a patient advocate track-
2 ing system, if applicable.

3 “(E) Compiling data relating to any com-
4 plaints made to the advocate by Indians with
5 respect to the receipt of health care services
6 through the Service, and the satisfaction of In-
7 dians with those services, to determine whether
8 there exist any trends in those data.

9 “(F) Ensuring that a process exists for the
10 distribution of data compiled under subpara-
11 graph (E) to Indian health programs, appro-
12 priate leaders, committees, and service pro-
13 viders, and staff of the Service.

14 “(G) Identifying, not less frequently than
15 quarterly, opportunities for improvement in the
16 provision of health care services to Indians by
17 or through the Service, including based on com-
18 plaints by Indian patients or immediate family
19 members.

20 “(H) Ensuring that any significant com-
21 plaint by an Indian patient or family member
22 with respect to health care provided by or
23 through the Service is brought to the attention
24 of appropriate staff of the Service or Indian
25 health program for the purpose of assessing

1 whether further analysis of the problem is re-
2 quired at the Service, Service area, Service unit,
3 or Indian health program level.

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

6 “(J) Ensuring that all appeals and final
7 decisions with respect to the receipt of health
8 care services through the Service are entered
9 into a patient advocate tracking system of the
10 Office, if applicable.

11 “(K) Understanding all laws, directives,
12 and other rules relating to the rights and re-
13 sponsibilities of Indians in receiving health care
14 services through the Service, including the ap-
15 peals processes available to Indian patients and
16 immediate family members.

17 “(L) Ensuring that Indians receiving be-
18 havioral health services under title VII (and any
19 surrogate decisionmakers for such Indians) are
20 aware of the right of Indians—

21 “(i) to seek representation from sys-
22 tems established under section 103 of the
23 Protection and Advocacy for Mentally Ill
24 Individuals Act of 1986 (42 U.S.C.
25 10803);

1 “(ii) to protect and advocate for the
2 rights of Indians experiencing behavioral
3 health issues; and

4 “(iii) to investigate incidents of abuse
5 and neglect of Indians experiencing behav-
6 ioral health issues.

7 “(M) Achieving compliance with any appli-
8 cable requirements established by the Secretary
9 with respect to the inspection of controlled sub-
10 stances (as defined in section 102 of the Con-
11 trolled Substances Act (21 U.S.C. 802)).

12 “(N) Documenting potentially threatening
13 behavior and reporting that behavior to the ap-
14 propriate authorities.

15 “(3) TRAINING.—The Director shall ensure
16 that the training provided to patient advocates
17 under paragraph (1)(B) is consistent throughout the
18 Office, including with respect to any mandatory
19 training or certification standards approved by the
20 Director.”.

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

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

1 **“SEC. 803. FITNESS OF HEALTH CARE PROVIDERS.**

2 “(a) ADDITIONAL REQUIREMENTS FOR HIRING OF
3 HEALTH CARE PROVIDERS BY SERVICE.—As part of the
4 hiring process for each health care provider position at
5 the Service after the date of enactment of the Restoring
6 Accountability in the Indian Health Service Act of 2022,
7 the Director shall require from the medical board of each
8 State in which the health care provider has or had a med-
9 ical license—

10 “(1) information on any violation of the re-
11 quirements of the medical license of the health care
12 provider during the 20-year period ending on the
13 date on which the health care provider is being con-
14 sidered for a position at the Service; and

15 “(2) information on whether the health care
16 provider has entered into any settlement agreement
17 for a disciplinary charge relating to the practice of
18 medicine by the health care provider.

19 “(b) PROVISION OF INFORMATION ON SERVICE
20 HEALTH CARE PROVIDERS TO STATE MEDICAL
21 BOARDS.—Notwithstanding section 552a of title 5, United
22 States Code, with respect to each health care provider of
23 the Service who has violated a requirement of the medical
24 license of the health care provider, the Director shall pro-
25 vide to the medical board of each State in which the health
26 care provider is licensed detailed information with respect

1 to the violation, regardless of whether the medical board
2 has formally requested that information.”.

3 (b) REPORT ON COMPLIANCE BY INDIAN HEALTH
4 SERVICE WITH REVIEWS OF HEALTH CARE PROVIDERS
5 LEAVING SERVICE OR TRANSFERRING TO OTHER FACILI-
6 TIES.—Not later than 180 days after the date of enact-
7 ment of this Act, the Director of the Indian Health Service
8 shall submit to the Committee on Indian Affairs of the
9 Senate and the Committee on Natural Resources of the
10 House of Representatives a report on the compliance by
11 the Indian Health Service with the policy of the Indian
12 Health Service—

13 (1) to conduct a review of each health care pro-
14 vider of the Indian Health Service who transfers to
15 another medical facility of the Indian Health Serv-
16 ice, resigns, retires, or is terminated to determine
17 whether there are any concerns, complaints, or alle-
18 gations of violations relating to the medical practice
19 of the health care provider; and

20 (2) to take appropriate action with respect to
21 any concern, complaint, or allegation described in
22 paragraph (1).

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

2 Title IV of the Indian Health Care Improvement Act
3 (25 U.S.C. 1641 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 412. STANDARDS TO IMPROVE TIMELINESS OF CARE.**

6 **“(a) REGULATIONS.—**

7 **“(1) IN GENERAL.—**Not later than 180 days
8 after the date of enactment of the Restoring Ac-
9 countability in the Indian Health Service Act of
10 2022, the Secretary, acting through the Service,
11 shall—

12 **“(A)** establish, by regulation, standards to
13 measure the timeliness of the provision of
14 health care services in Service facilities; and

15 **“(B)** provide such standards to each Serv-
16 ice unit.

17 **“(2) DATA COLLECTION.—**The Secretary, act-
18 ing through the Service, shall develop a process for
19 each Service unit to submit to the Secretary data
20 with respect to the standards established under
21 paragraph (1)(A).

22 **“(b) ANNUAL REPORTS.—**

23 **“(1) IN GENERAL.—**Not later than 1 year after
24 the date of enactment of the Restoring Account-
25 ability in the Indian Health Service Act of 2022,
26 and annually thereafter, each Area office shall sub-

mit to the Secretary a report on the metrics reported by Service units relating to the timeliness of the provision of health care services in Service facilities within each Service unit.

“(2) PUBLICATION.—The Secretary shall make each report received under paragraph (1) publicly 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

1 of national defense or the conduct of foreign af-
2 fairs.

3 “(2) RETALIATION.—The term ‘retaliation’,
4 with respect to a whistleblower, means—

5 “(A) an adverse employment action against
6 the whistleblower;

7 “(B) a significantly adverse action against
8 the whistleblower, such as the refusal or delay
9 of care provided through the Service; and

10 “(C) an adverse action described in sub-
11 paragraph (A) or (B) against a family member
12 or friend of the whistleblower.

13 “(3) WHISTLEBLOWER.—The term ‘whistle-
14 blower’ means an employee of the Service who dis-
15 closes information that the employee reasonably be-
16 lieves evidences—

17 “(A) a violation of any law, rule, regula-
18 tion, or Service policy; or

19 “(B) gross mismanagement, a gross waste
20 of funds, an abuse of authority, or a substantial
21 and specific danger to public health or safety.

22 “(b) EMPLOYEE ACCOUNTABILITY.—

23 “(1) DESIGNATED OFFICIAL.—The Secretary
24 shall designate an official in the Department who is

1 not an employee of the Service to receive reports
2 under paragraph (2).

3 “(2) MANDATORY REPORTING.—An employee of
4 the Service who witnesses retaliation against a whis-
5 tleblower, a violation of a patient safety requirement,
6 or other similar conduct shall submit to the official
7 designated under paragraph (1) a report of the con-
8 duct.

9 “(3) OVERSIGHT.—Not later than 3 days after
10 the date on which the official designated under para-
11 graph (1) receives a report under paragraph (2), the
12 Secretary shall—

13 “(A) formally review the report; and

14 “(B) provide a copy of the report and any
15 other relevant information to the Inspector
16 General of the Department.

17 “(4) REMOVAL FOR WHISTLEBLOWER RETALIA-
18 TION.—

19 “(A) IN GENERAL.—The Secretary may re-
20 move for misconduct from the civil service (as
21 defined in section 2101 of title 5, United States
22 Code), in accordance with section 606 or 607,
23 as applicable, an employee of the Service if the
24 Secretary determines, after completing a review
25 described in paragraph (3), that the employee

1 has retaliated against a whistleblower and war-
2 rants removal for misconduct.

3 “(B) RETALIATION AS MISCONDUCT.—Re-
4 taliation by an employee against a whistle-
5 blower, as described in subparagraph (A), shall
6 be considered to be misconduct for purposes of
7 sections 606 and 607.

8 “(5) ENHANCING PROTECTIONS FOR WHISTLE-
9 BLOWERS.—The Secretary shall carry out any ac-
10 tions determined necessary by the Secretary to en-
11 hance protection for whistleblowers, including identi-
12 fying appropriate Service employees and requiring
13 the employees to complete the Office of Special
14 Counsel’s Whistleblower Certification Program.”.

15 **SEC. 202. RIGHT OF FEDERAL EMPLOYEES TO PETITION**
16 **CONGRESS.**

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

20 (1) by striking “The right of” and inserting the
21 following:

22 “(a) IN GENERAL.—The right of”; and

23 (2) by adding at the end the following:

24 “(b) ADVERSE ACTION.—An employee who interferes
25 with or denies a right protected under subsection (a) shall

1 be subject to any adverse action described in paragraphs
 2 (1) through (5) of section 7512, in accordance with the
 3 procedure described in section 7513 and any other appli-
 4 cable procedure.”.

5 (b) ELECTRONIC NOTIFICATION OF RIGHT OF EM-
 6 PLOYEES OF INDIAN HEALTH SERVICE.—

7 (1) IN GENERAL.—The Secretary of Health and
 8 Human Services, acting through the Director of the
 9 Indian Health Service (referred to in this subsection
 10 as the “Secretary”), shall provide, in accordance
 11 with paragraphs (2) through (5), to each employee
 12 of the Indian Health Service notice of the right to
 13 petition Congress under section 7211 of title 5,
 14 United States Code.

15 (2) MEMORANDUM.—Not later than 30 days
 16 after the date of enactment of this Act, the Sec-
 17 retary shall submit to the Inspector General of the
 18 Department of Health and Human Services (re-
 19 ferred to in this subsection as the “Inspector Gen-
 20 eral”) a memorandum that includes the following
 21 statement: “It is a violation of section 7211 of title
 22 5, United States Code, for any Federal agency or
 23 employee to require a Federal employee to seek ap-
 24 proval, guidance, or any other form of input prior to
 25 contacting Congress with information, even if that

1 information is in relation to the job responsibilities
2 of the employee. A Federal employee found to have
3 interfered with or denied the right of another Fed-
4 eral employee under such section shall be subject to
5 an adverse action described in any of paragraphs (1)
6 through (5) of section 7512 of title 5, United States
7 Code, including a suspension for more than 14 days
8 without pay.”.

9 (3) APPROVAL OR DISAPPROVAL.—

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

15 (B) DISAPPROVAL.—If the Inspector Gen-
16 eral disapproves the memorandum, the Inspec-
17 tor General shall advise the Secretary on what
18 changes to the memorandum are necessary for
19 approval.

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

23 (A) provide to each employee of the Indian
24 Health Service an electronic copy of the ap-
25 proved memorandum; and

1 (B) post the memorandum in a clear and
2 conspicuous place on the website of the Indian
3 Health Service.

4 (5) REVISED MEMORANDUM.—

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

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

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

22 **SEC. 203. FISCAL ACCOUNTABILITY.**

23 Title VI of the Indian Health Care Improvement Act
24 (25 U.S.C. 1661 et seq.) (as amended by section 201) is
25 amended by adding at the end the following:

1 **“SEC. 610. FISCAL ACCOUNTABILITY.**

2 “(a) MANAGEMENT OF FUNDS.—

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

13 “(2) INDIVIDUAL DESCRIBED.—An individual
14 referred to in paragraph (1) is an individual em-
15 ployed in the Service—

16 “(A) in a position that is—

17 “(i) described in any of sections 5312
18 through 5316 of title 5, United States
19 Code;

20 “(ii) placed in level IV or V of the Ex-
21 ecutive Schedule under section 5317 of
22 title 5, United States Code; or

23 “(iii) described in section 213.3301 or
24 213.3302 of title 5, Code of Federal Regu-
25 lations (or a successor regulation); or

1 “(B) as a limited term appointee, limited
2 emergency appointee, or noncareer appointee
3 (as those terms are defined in section 3132(a)
4 of title 5, United States Code).

5 “(b) PRIORITIZATION OF PATIENT CARE.—

6 “(1) IN GENERAL.—Notwithstanding any other
7 provision of law, the Secretary shall use amounts
8 available to the Service that are not obligated or ex-
9 pended, including base budget funding and third
10 party collections, during the fiscal year for which the
11 amounts are made available, and that remain avail-
12 able, only to support patient care by using the funds
13 for the costs of—

14 “(A) essential medical equipment;

15 “(B) purchased or referred care; or

16 “(C) staffing.

17 “(2) SPECIAL RULE.—In using amounts under
18 paragraph (1), the Secretary shall ensure that, in
19 any case where the amounts were originally made
20 available for a particular Service unit, the amounts
21 are used to benefit Indians served by that Service
22 unit.

23 “(3) HHS PLAN.—Each applicable fiscal year,
24 the Secretary, in consultation with Indian tribes,
25 shall establish a plan for distributing the amounts

1 described in paragraph (1) across the categories of
2 uses described in subparagraphs (A) through (C) of
3 that paragraph.

4 “(4) RESTRICTIONS.—The Secretary may not
5 use amounts described in paragraph (1)—

6 “(A) to remodel or interior decorate any
7 Area office; or

8 “(B) to increase the rate of pay of any em-
9 ployee of an Area office.

10 “(c) SPENDING REPORTS.—Not later than 90 days
11 after the end of each fiscal year, the Secretary shall sub-
12 mit a report describing the authorizations, expenditures,
13 outlays, transfers, reprogramming, and obligations of each
14 level of the Service, including the headquarters, each Area
15 office, each Service unit, and each health clinic or facility,
16 to—

17 “(1) each Indian tribe;

18 “(2) in the Senate—

19 “(A) the Committee on Indian Affairs;

20 “(B) the Committee on Health, Education,
21 Labor, and Pensions;

22 “(C) the Committee on Appropriations;
23 and

24 “(D) the Committee on the Budget; and

25 “(3) in the House of Representatives—

1 “(A) the Committee on Natural Resources;

2 “(B) the Committee on Energy and Com-
3 merce;

4 “(C) the Committee on Appropriations;
5 and

6 “(D) the Committee on the Budget.

7 “(d) STATUS REPORTS.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 not later than 180 days after the end of each fiscal
10 year, the Secretary shall provide to each entity de-
11 scribed in paragraphs (1) through (3) of subsection
12 (c) a report describing the safety, billing, certifi-
13 cation, credential, and compliance statuses of each
14 facility managed, operated, or otherwise supported
15 by the Service.

16 “(2) UPDATES.—With respect to any change of
17 a status described in paragraph (1), the Secretary
18 shall immediately provide to each entity described in
19 paragraphs (1) through (3) of subsection (c) an up-
20 date describing the change.

21 “(e) EFFECT.—Nothing in this section—

22 “(1) negatively impacts the right of an Indian
23 tribe to enter into a compact or contract under the
24 Indian Self-Determination and Education Assistance
25 Act (25 U.S.C. 5301 et seq.); or

1 “(2) applies to such a compact or contract un-
2 less expressly agreed to by the Indian tribe.”.

3 **TITLE III—REPORTS**

4 **SEC. 301. DEFINITIONS.**

5 In this title:

6 (1) SECRETARY.—The term “Secretary” means
7 the Secretary of Health and Human Services.

8 (2) SERVICE.—The term “Service” means the
9 Indian Health Service.

10 (3) SERVICE UNIT.—The term “Service unit”
11 has the meaning given the term in section 4 of the
12 Indian Health Care Improvement Act (25 U.S.C.
13 1603).

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

18 **SEC. 302. REPORTS BY THE SECRETARY OF HEALTH AND** 19 **HUMAN SERVICES.**

20 (a) IHS PROFESSIONAL HOUSING PLAN.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this Act, the Secretary
23 shall develop, make publicly available, and submit to
24 Congress and the Comptroller General of the United
25 States a written plan to address the professional

1 housing needs of employees of the Service and em-
2 ployees of tribal health programs that comports with
3 the practices and recommendations of the Govern-
4 ment Accountability Office relating to professional
5 housing included in the most recent report of the
6 Government Accountability Office regarding Indian
7 Health Service housing needs.

8 (2) REQUIREMENT.—The plan under paragraph
9 (1) shall include, at a minimum, projections for the
10 professional housing needs for—

11 (A) the 1-year period following the date of
12 the plan;

13 (B) the 5-year period following the date of
14 the plan; and

15 (C) the 10-year period following the date
16 of the plan.

17 (b) PLAN RELATING TO IHS STAFFING NEEDS.—

18 (1) IN GENERAL.—Not later than 1 year after
19 the date on which the Government Accountability
20 Office releases the report described in subsection (a),
21 the Secretary shall develop, make publicly available,
22 and submit to Congress and the Comptroller General
23 of the United States a written plan to address the
24 staffing needs of the Service and tribal health pro-
25 grams that comports with the practices and rec-

1 ommendations of the Government Accountability Of-
2 fice relating to workforce planning included in the
3 report.

4 (2) REQUIREMENT.—The plan under paragraph
5 (1) shall include, at a minimum, projections for the
6 staffing needs for—

7 (A) the 1-year period following the date of
8 the plan;

9 (B) the 5-year period following the date of
10 the plan; and

11 (C) the 10-year period following the date
12 of the plan.

13 **SEC. 303. REPORTS BY THE COMPTROLLER GENERAL.**

14 (a) IHS HOUSING NEEDS REPORT.—Not later than
15 2 years after the date on which the Comptroller General
16 of the United States receives the professional housing plan
17 under section 302(a), the Comptroller General shall de-
18 velop and submit to Congress a report that includes—

19 (1) an assessment of the professional housing
20 plan;

21 (2) an evaluation of any existing, as of the date
22 of the report, assessments and projections for the
23 professional housing needs of employees of the Serv-
24 ice and employees of tribal health programs, includ-
25 ing a discussion and conclusions as to whether the

existing assessments and projections accurately reflect the professional housing needs of employees of the Service and employees of tribal health programs; and

(3) an assessment of the professional housing needs of—

(A) employees of the Service for each Service area (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)); and

(B) employees of tribal health programs for each Indian tribe, as applicable.

(b) IHS STAFFING NEEDS REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date on which the Comptroller General receives the plan relating to IHS staffing needs under section 302(b), the Comptroller General shall prepare and submit to Congress a report on the staffing needs of the Service and tribal health programs.

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

(A) an assessment of the staffing plan referred to in paragraph (1);

(B) a description of—

1 (i) the number and type of full-time
 2 positions needed at each facility of the
 3 Service and at each tribal health program;
 4 and

5 (ii) the amount of funds necessary to
 6 maintain those positions;

7 (C) an explanation of the various meth-
 8 odologies that the Service uses and has pre-
 9 viously used to determine the number and type
 10 of full-time positions needed at federally man-
 11 aged Service units; and

12 (D) an assessment of the use of inde-
 13 pendent contractors, including—

14 (i) the number of independent con-
 15 tractors hired to fill vacant full-time posi-
 16 tions; and

17 (ii) the amount of funds spent on
 18 independent contractors who provide
 19 health care services.

20 (c) WHISTLEBLOWER PROTECTIONS REPORT.—

21 (1) IN GENERAL.—Not later than 1 year after
 22 the date of enactment of this Act, the Comptroller
 23 General shall develop and submit to Congress a re-
 24 port on the efficacy of existing protections for whis-
 25 tleblowers in the Service, including the protections

1 implemented pursuant to sections 201 and 202 and
2 the amendments made by those sections.

3 (2) CONTENTS.—The report under paragraph
4 (1) shall include—

5 (A) a discussion and conclusions as to
6 whether the Service has taken proper steps to
7 prevent retaliation against whistleblowers;

8 (B) if applicable, any recommendations for
9 changes to the policy of the Service with respect
10 to whistleblowers; and

11 (C) a discussion and conclusions as to
12 whether the official email accounts of employees
13 of the Service are appropriately monitored.

14 **SEC. 304. INSPECTOR GENERAL REPORTS.**

15 (a) PATIENT CARE REPORTS.—

16 (1) IN GENERAL.—Not later than 2 years after
17 the date of enactment of this Act, and not less fre-
18 quently than every 3 years thereafter, the Inspector
19 General of the Department of Health and Human
20 Services shall develop and submit to Congress and
21 the Service a report on—

22 (A) patient harm events and patient deaths
23 occurring in Service units;

24 (B) deferrals and denials of care of pa-
25 tients of the Service; and

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

8 (i) section 306 of title 5, United
9 States Code;

10 (ii) section 1115(b) of title 31, United
11 States Code; and

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

16 (2) CONTENTS.—The report under paragraph
17 (1) shall include—

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

22 (B) an evaluation of how the Service
23 tracks, reports, and responds to patient harm
24 events and patient deaths and recommendations

1 regarding how to improve the tracking, report-
2 ing, and response; and

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

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

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

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

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

18 Section 1880 of the Social Security Act (42 U.S.C.
19 1395qq) is amended by adding at the end the following:

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

1 “(A) section 1867; and

2 “(B) conditions of participation in the program
3 under this title.

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

11 **TITLE IV—TECHNICAL** 12 **AMENDMENTS**

13 **SEC. 401. TECHNICAL AMENDMENTS.**

14 (a) DEFINITIONS.—Section 4 of the Indian Health
15 Care Improvement Act (25 U.S.C. 1603) is amended—

16 (1) in paragraph (5), by striking the paragraph
17 designation and heading and all that follows through
18 “means” and inserting the following:

19 “(5) PURCHASED/REFERRED CARE.—The term
20 ‘purchased/referred care’ means”; and

21 (2) by redesignating paragraph (5) and para-
22 graphs (6) through (15) as paragraph (15) and
23 paragraphs (5) through (14), respectively, and mov-
24 ing the paragraphs so as to appear in numerical
25 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).

○