

AMENDMENTS TO H.R. 1328
OFFERED BY MR. PALLONE OF NEW JERSEY

In the following proposed sections of the Indian Health Care Improvement Act, strike the matter indicated after “acting through the Service”:

Section 203(b) [“and Tribal Health Programs”]

Section 207 [“or Tribal Health Programs”]

Section 208(b) [“and Tribal Health Programs”]

Section 210(e)(1) [“, and affected Indian Tribes and Tribal Organizations,”]

Section 213(a) [“, Indian Tribes, and Tribal Organizations,”]

Section 214 [“and Indian Tribes, Tribal Organizations, and Urban Indian Organizations”]

Section 701(a)(1) [“Indian Tribes, Tribal Organizations, and Urban Indian Organizations,”]

Section 701(b)(1) [“Indian Tribes, Tribal Organizations, and Urban Indian Organizations,”]

Section 701(c) [“Indian Tribes, and Tribal Organizations,”]

Section 701(e) [“Indian Tribes, Tribal Organizations, and Urban Indian Organizations,”]

Section 703(a)(1) [“Indian Tribes, and Tribal Organizations,”]

Section 703(b)(1) [“Indian Tribes, and Tribal Organizations,”]

Section 704(b) [“Indian Tribes, and Tribal Organizations,”]

Section 704(c) [“Indian Tribes, and Tribal Organizations,”]

Section 707(b)(1)(A) [“Indian Tribes, and Tribal Organizations,”]

Section 707(c)(1) [“Indian Tribes, and Tribal Organizations,”]

Section 707(f) [“Indian Tribes, and Tribal Organizations,”]

Section 707(g) [“Indian Tribes, Tribal Organizations, and Urban Indian Organizations,”]

Section 709 [“Indian Tribes, and Tribal Organizations,”]

Section 710(b) [“, either directly or through Indian Tribes and Tribal Organizations,”]

Section 711(a) [“Indian Tribes, and Tribal Organizations,”]

Section 712(a)(1) [“Indian Tribes, and Tribal Organizations,”]

Section 712(b) [“and Indian Tribes, Tribal Organizations, and Urban Indian Organizations,”]

Section 713(a) [“and the Secretary of the Interior, Indian Tribes, and Tribal Organizations,”]

In the proposed section 4(4)(A) of the Indian Health Care Improvement Act [page 9, line 15] insert “including” before “alcohol”.

In the proposed section 4(11)(G)(xxix) of such Act [page 14, line 4] strike “such other activities identified by the Service, a Tribal Health Program, or an Urban Indian Organization, to promote” and insert “activities to promote”.

In the proposed section 4(15) of such Act [page 15, line 19] strike “section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e))” and insert “section 312(f) of the Higher Education Act of 1965 (20 U.S.C. 1058(f))”.

In the proposed section 102(b) of such Act [page 20, line 14] strike “The Secretary shall not make a grant” and insert “No grant may be made”.

Amend proposed section 104(d)(4)(B) of such Act [page 29, lines 16 through 25] to read as follows:

1 “(B) FACTORS FOR CONSIDERATION.—
2 When waiving or suspending an obligation of
3 service or payment under subparagraph (A), the
4 Secretary shall consult with the Area Office, In-
5 dian Tribes, Tribal Organizations, or Urban In-
6 dian Organizations affected to consider whether
7 the obligation may be satisfied in a teaching ca-
8 pacity at a tribal college or university nursing
9 program under subsection (b)(1)(D).”.

Amend the proposed section 106(b)(2) of such Act [page 34, lines 8 through 15] to read as follows:

10 “(2) COSTS.—
11 “(A) IN GENERAL.—With respect to costs
12 of providing any scholarship pursuant to sub-
13 section (a), except as provided in subparagraph
14 (B), the costs of the scholarship shall be paid
15 from the funds made available pursuant to sub-
16 section (a)(1) provided to the Tribal Health
17 Program.

1 “(B) NON-FEDERAL SHARE.—

2 “(i) IN GENERAL.—Subject to clause
3 (ii), 20 percent of the costs of a scholar-
4 ship pursuant to subsection (a) shall be
5 paid from non-Federal funds.

6 “(ii) WAIVER FOR GOOD CAUSE.—In
7 the case of extreme hardship or for other
8 good cause shown, the Secretary may waiv-
9 er, in whole or in part, the requirement
10 under clause (i).”.

In the matter preceding paragraph (1) in the pro-
posed section 108 of such Act [page 41, line 19], strike
“significant portion” and insert “majority”.

In the proposed section 110(d)(2) of such Act [page
47, line 14], strike “Notwithstanding” and insert “Con-
sistent with”.

Strike subsection (f) of the proposed section 110 of
such Act [page 51, lines 1 through 10] and redesignate
subsequent subsections accordingly.

Amend paragraphs (3) and (4) of the proposed sec-
tion 110(l) of such Act [page 57, lines 12 through 23]
to read as follows:

11 “(3) TIME PERIOD FOR REPAYMENT.—Any
12 amount of damages which the United States is enti-

1 tled to recover under this subsection shall be paid to
2 the United States within the 1-year period beginning
3 on the date of the breach or such longer period be-
4 ginning on such date as shall be specified by the
5 Secretary.

6 “(4) DEDUCTIONS IN MEDICARE PAYMENTS.—
7 Amounts not paid within such period shall be sub-
8 ject to collection through deductions in Medicare
9 payments pursuant to section 1892 of the Social Se-
10 curity Act.”.

In subsection (a) of the proposed section 113 of such Act [page 63, line 23] strike “Tribal Health Programs” and insert “Indian Health Programs”.

In subsection (b) of such proposed section [page 64, lines 1 through 2] strike “Tribal Health Program” and insert “Indian Health Program”.

Amend the proposed section 122 of such Act [page 84, lines 1 through 4] to read as follows:

11 **“SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.**

12 “The Secretary shall, by contract or otherwise, pro-
13 vide training for individuals in the administration and
14 planning of Tribal Health Programs, with priority to Indi-
15 ans.”.

Amend proposed section 204(c) of such Act [page 102, line 13 through page 103, line 2] to read as follows:

1 “(c) DIABETES PROJECTS.—The Secretary shall con-
2 tinue to maintain through fiscal year 2017 each model dia-
3 betes project in existence on the date of enactment of the
4 Indian Health Care Improvement Act Amendments of
5 2007.”.

In each of subsections (a), (c), and (d) of the proposed section 210 of such Act [page 112, line 17 and page 114, lines 9 and 16], strike “Indian Tribes, Tribal Organizations, and Urban Indian Organizations” and insert “Indian Tribes and Tribal Organizations”.

In subsection (a) of such proposed section [page 112, lines 21 through 22], strike “and Urban Indian”.

At the end of proposed section 208 of such Act [page 109, after line 203] add the following:

6 “(c) LIMITATION ON FUNDING FOR PARENTS AND
7 GUARDIANS AS ESCORTS.—Funding may only be provided
8 under subsection (b) for travel costs of a qualified escort
9 who is a parent or guardian if the parent or guardian is
10 otherwise unable to afford such costs.”.

Amend the proposed section 221 of such Act [page 132, lines 3 through 10] to read as follows:

1 **“SEC. 221. LICENSING.**

2 “Licensed health care professionals employed by a
3 Tribal Health Program shall, if licensed in any State, be
4 exempt from the licensing requirements of the State in
5 which the Tribal Health Program performs the services
6 described in its contract or compact under the Indian Self-
7 Determination and Education Assistance Act (25 U.S.C.
8 450 et seq.) while performing such services.”.

Strike subsection (c)(5) of the proposed section 302
of such Act [page 150, lines 5 through 12] and redesignate
subsequent paragraphs accordingly.

Amend subsection (e) of such proposed section [page
152, lines 3 through 7] to read as follows:

9 (e) FINANCIAL ASSISTANCE.—The Secretary is au-
10 thorized to provide financial assistance to Indian Tribes,
11 Tribal Organizations, and Indian communities in an
12 amount equal to the Federal share of the costs of oper-
13 ating, managing, and maintaining the facilities provided
14 under the plan described in subsection (h)(1)(F).

In subsection (i)(1) of such proposed section [page
157, lines 17 through 18], strike “significant proportion”
and insert “majority”.

Amend subparagraph (C) of the proposed section 305(b)(1) of such Act [page 163, line 17 through page 164 line 9] to read as follows:

1 “(C) which, upon completion of such con-
2 struction, expansion, or modernization will, sub-
3 ject to paragraph (2)—

4 “(i) have a total capacity appropriate
5 to its projected service population;

6 “(ii) serve at least 500 eligible Indi-
7 ans annually; and

8 “(iii) provide ambulatory care in a
9 Service Area (specified in the contract or
10 compact under the Indian Self-Determina-
11 tion and Education Assistance Act (25
12 U.S.C. 450 et seq.)) with a population of
13 no fewer than 2,000 eligible Indians.”.

Amend paragraph (2) of the proposed section 305(b) of such Act [page 164, lines 10 through 20] to read as follows:

14 “(2) SMALL INDIAN COMMUNITY SET ASIDE.—
15 Of the grants awarded under this section, the Sec-
16 retary shall set aside a portion for the construction,
17 expansion, or modernization of a facility that, upon
18 completion, does not meet the requirement of clause

1 (ii) or (iii) (or both such clauses) of paragraph
2 (1)(C).”.

In subsection (a) of the proposed section 306 of such Act [page 167, line 13], strike “to enter into contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) with Indian Tribes or Tribal Organizations” and insert “to make grants to, and enter into construction contracts or construction project agreements with, Indian Tribes or Tribal Organizations under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)” and strike subsection (b)(6) of such proposed section [page 168, lines 8 through 9].

Amend the second sentence of the proposed section 308 of such Act [page 171, lines 16 through 22] to read as follows: “Such leases, contracts, or agreements may include provisions for construction or renovation, rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other reasonable expenses that the Secretary determines, by regulation, to be allowable.”

Amend the third sentence of the proposed section 311 of such Act [page 175, lines 11 through 19] to read as follows: “An Indian Tribe or Tribal Organization shall

be eligible to establish a joint venture project if, when it submits a letter of intent, it has not begun the process of acquisition or construction of a health facility for use in the joint venture project.”

Amend the last sentence of the proposed section 313(c) of such Act [page 179, lines 15 through 18] to read as follows: “The Secretary shall consult with Indian Tribes and Tribal Organizations in determining the maximum renovation cost threshold.”.

Amend subsections (c) and (d) of proposed section 401 of such Act [page 186, line 3, through page 191, line 19] to read as follows:

1 “(c) USE OF FUNDS.—
2 “(1) SPECIAL FUND.—
3 “(A) 100 PERCENT PASS-THROUGH OF
4 PAYMENTS DUE TO FACILITIES.—Notwith-
5 standing any other provision of law, but subject
6 to paragraph (2), payments to which a facility
7 of the Service is entitled by reason of a provi-
8 sion of title XVIII or XIX of the Social Secu-
9 rity Act shall be placed in a special fund to be
10 held by the Secretary. In making payments
11 from such fund, the Secretary shall ensure that
12 each Service Unit of the Service receives 100

1 percent of the amount to which the facilities of
2 the Service, for which such Service Unit makes
3 collections, are entitled by reason of a provision
4 of either such title.

5 “(B) USE OF FUNDS.—Amounts received
6 by a facility of the Service under subparagraph
7 (A) by reason of a provision of title XVIII or
8 XIX of the Social Security Act shall first be
9 used (to such extent or in such amounts as are
10 provided in appropriation Acts) for the purpose
11 of making any improvements in the programs
12 of the Service operated by or through such fa-
13 cility which may be necessary to achieve or
14 maintain compliance with the applicable condi-
15 tions and requirements of such respective title.
16 Any amounts so received that are in excess of
17 the amount necessary to achieve or maintain
18 such conditions and requirements shall, subject
19 to consultation with the Indian Tribes being
20 served by the Service Unit, be used for increas-
21 ing the facility’s capacity to provide, or improv-
22 ing the quality or accessibility of, the services
23 the facility furnishes.

24 “(2) DIRECT PAYMENT OPTION.—Paragraph
25 (1) shall not apply to a Tribal Health Program upon

1 the election of such Program under subsection (d) to
2 receive payments directly. No payment may be made
3 out of the special fund described in such paragraph
4 with respect to reimbursement made for services
5 provided by such Program during the period of such
6 election.

7 “(d) DIRECT BILLING.—

8 “(1) IN GENERAL.—Subject to complying with
9 the requirements of paragraph (2), a Tribal Health
10 Program may elect to directly bill for, and receive
11 payment for, health care items and services provided
12 by such Program for which payment is made under
13 title XVIII, XIX, or XXI of the Social Security Act.

14 “(2) DIRECT REIMBURSEMENT.—

15 “(A) USE OF FUNDS.—Each Tribal Health
16 Program making the election described in para-
17 graph (1) with respect to a program under title
18 XVIII, XIX, or XXI of the Social Security Act
19 shall be reimbursed directly by that program
20 for items and services furnished without regard
21 to subsection (c)(1), but all amounts so reim-
22 bursed shall be used by the Tribal Health Pro-
23 gram for the same purposes with respect to
24 such Program for which payment under sub-
25 paragraph (A) of subsection (c)(1) to a facility

1 of the Service may be used pursuant to sub-
2 paragraph (B) of such subsection with respect
3 to the Service.

4 “(B) AUDITS.—The amounts paid to a
5 Tribal Health Program making the election de-
6 scribed in paragraph (1) with respect to a pro-
7 gram under title XVIII, XIX, or XXI of the So-
8 cial Security Act shall be subject to all auditing
9 requirements applicable to the program under
10 such title, as well as all auditing requirements
11 applicable to programs administered by an In-
12 dian Health Program. Nothing in the preceding
13 sentence shall be construed as limiting the ap-
14 plication of auditing requirements applicable to
15 amounts paid under title XVIII, XIX, or XXI
16 of the Social Security Act.

17 “(C) IDENTIFICATION OF SOURCE OF PAY-
18 MENTS.—Any Tribal Health Program that re-
19 ceives reimbursements or payments under title
20 XVIII, XIX, or XXI of the Social Security Act
21 shall provide to the Service a list of each pro-
22 vider enrollment number (or other identifier)
23 under which such Program receives such reim-
24 bursements or payments.

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

3 “(A) IN GENERAL.—The Secretary, acting
4 through the Service and with the assistance of
5 the Administrator of the Centers for Medicare
6 & Medicaid Services, shall examine on an ongo-
7 ing basis and implement any administrative
8 changes that may be necessary to facilitate di-
9 rect billing and reimbursement under the pro-
10 gram established under this subsection, includ-
11 ing any agreements with States that may be
12 necessary to provide for direct billing under a
13 program under title XIX or XXI of the Social
14 Security Act.

15 “(B) COORDINATION OF INFORMATION.—
16 The Service shall provide the Administrator of
17 the Centers for Medicare & Medicaid Services
18 with copies of the lists submitted to the Service
19 under paragraph (2)(C), enrollment data re-
20 garding patients served by the Service (and by
21 Tribal Health Programs, to the extent such
22 data is available to the Service), and such other
23 information as the Administrator may require
24 for purposes of administering title XVIII, XIX,
25 or XXI of the Social Security Act.

1 “(4) WITHDRAWAL FROM PROGRAM.—A Tribal
2 Health Program that bills directly under the pro-
3 gram established under this subsection may with-
4 draw from participation in the same manner and
5 under the same conditions that an Indian Tribe or
6 Tribal Organization may retrocede a contracted pro-
7 gram to the Secretary under the authority of the In-
8 dian Self-Determination and Education Assistance
9 Act (25 U.S.C. 450 et seq.). All cost accounting and
10 billing authority under the program established
11 under this subsection shall be returned to the Sec-
12 retary upon the Secretary’s acceptance of the with-
13 drawal of participation in this program.

14 “(5) TERMINATION FOR FAILURE TO COMPLY
15 WITH REQUIREMENTS.—The Secretary may termi-
16 nate the participation of a Tribal Health Program or
17 in the direct billing program established under this
18 subsection if the Secretary determines that the Pro-
19 gram has failed to comply with the requirements of
20 paragraph (2). The Secretary shall provide a Tribal
21 Health Program with notice of a determination that
22 the Program has failed to comply with any such re-
23 quirement and a reasonable opportunity to correct
24 such noncompliance prior to terminating the Pro-

1 gram’s participation in the direct billing program es-
2 tablished under this subsection.

In proposed section 402 of such Act, strike “**AND OTHER HEALTH BENEFITS PROGRAMS**” in the heading [page 192, line 7] and strike “and other health benefits programs” in subsection (a)(1) [page 192, lines 18-19].

Amend subsections (d) through (f) of such section [page 194, line 13 through page 195, line 16] to read as follows:

3 “(d) **FACILITATING COOPERATION IN ENROLLMENT**
4 **AND RETENTION.**—The Secretary, acting through the
5 Centers for Medicare & Medicaid Services, shall consult
6 with States, the Service, Indian Tribes, Tribal Organiza-
7 tions, and Urban Indian Organizations to develop and dis-
8 seminate best practices with respect to facilitating agree-
9 ments between the States and Indian Tribes, Tribal Orga-
10 nizations, and Urban Indian Organizations relating to en-
11 rollment and retention of Indians in programs established
12 under titles XVIII, XIX, and XXI of the Social Security
13 Act.

14 “(e) **AGREEMENTS TO IMPROVE ENROLLMENT OF**
15 **INDIANS UNDER SOCIAL SECURITY ACT HEALTH BENE-**
16 **FITS PROGRAMS.**—For provisions relating to agreements

1 between the Secretary and the Service, Indian Tribes,
2 Tribal Organizations, and Urban Indian Organizations for
3 the collection, preparation, and submission of applications
4 by Indians for assistance under the Medicaid and chil-
5 dren's health insurance programs established under titles
6 XIX and XXI of the Social Security Act, and benefits
7 under the Medicare program established under title XVIII
8 of such Act, see subsections (a) and (b) of section 1139
9 of the Social Security Act.

10 “(f) DEFINITIONS.—In this section:

11 “(1) PREMIUM.—The term ‘premium’ includes
12 any enrollment fee or similar charge.

13 “(2) COST SHARING.—The term ‘cost sharing’
14 includes any deduction, deductible, copayment, coin-
15 surance, or similar charge.

16 “(3) BENEFITS.—The term ‘benefits’ means,
17 with respect to—

18 “(A) title XVIII of the Social Security Act,
19 benefits under such title;

20 “(B) title XIX of such Act, medical assist-
21 ance under such title; and

22 “(C) title XXI of such Act, assistance
23 under such title.

Amend proposed section 403(a) of such Act [page 195, line 19 through page 196, line 12] to read as follows:

1 “(a) RIGHT OF RECOVERY.—Except as provided in
2 subsection (f), the United States, an Indian Tribe, or
3 Tribal Organization shall have the right to recover from
4 an insurance company, health maintenance organization,
5 employee benefit plan, third-party tortfeasor, or any other
6 responsible or liable third party (including a political sub-
7 division or local governmental entity of a State) the rea-
8 sonable charges billed by the Secretary, an Indian Tribe,
9 or Tribal Organization, or, if higher, the highest amount
10 the third party demonstrates it would pay for care and
11 services furnished by providers other than governmental
12 entities, in providing health services through the Service,
13 an Indian Tribe, or Tribal Organization to any individual
14 to the same extent that such individual, or any nongovern-
15 mental provider of such services, would be eligible to re-
16 ceive damages, reimbursement, or indemnification for such
17 charges if—

18 “(1) such services had been provided by a non-
19 governmental provider; and

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

Add at the end of proposed section 403 of such Act [page 201, after line 7] the following new subsection:

1 “(1) EXCEPTION FOR EXCEPTED BENEFITS.—The
2 previous provisions of this section shall not apply to the
3 provision of excepted benefits described in paragraph
4 (1)(A) or (3) of section 2791(c) of the Public Health Serv-
5 ice Act (42 U.S.C. 300gg-91(c)).”.

Amend proposed section 404(a) of such Act [page 201 line 9 through page 202, line 7] to read as follows:

6 “(a) RETENTION OF AMOUNTS FOR USE BY PRO-
7 GRAM.—Except as provided in section 202(f) (relating to
8 the Catastrophic Health Emergency Fund) and section
9 807 (relating to health services for ineligible persons), all
10 reimbursements received or recovered, including under
11 section 807, by reason of the provision of health services
12 by the Service, by an Indian Tribe or Tribal Organization,
13 or by an Urban Indian Organization, shall be credited to
14 the Service, such Indian Tribe or Tribal Organization, or
15 such Urban Indian Organization, respectively, and may be
16 used as provided in section 401. In the case of such a
17 service provided by or through a Service Unit, such
18 amounts shall be credited to such unit and used for such
19 purposes.

Amend proposed section 405(a) of such Act [page 202, line 13 through page 203, line 11] to read as follows:

1 “(a) PURCHASING COVERAGE.—

2 “(1) IN GENERAL.—Insofar as amounts are
3 made available under law (including a provision of
4 the Social Security Act, the Indian Self-Determina-
5 tion and Education Assistance Act (25 U.S.C. 450
6 et seq.), or other law, other than under section 402)
7 to Indian Tribes, Tribal Organizations, and Urban
8 Indian Organizations for health benefits for Service
9 beneficiaries, Indian Tribes, Tribal Organizations,
10 and Urban Indian Organizations may use such
11 amounts to purchase health benefits coverage that
12 qualifies as creditable coverage under section
13 2701(c)(1) of the Public Health Service Act for such
14 beneficiaries, including, subject to paragraph (2),
15 through—

16 “(A) a tribally owned and operated health
17 care plan;

18 “(B) a State or locally authorized or li-
19 censed health care plan;

20 “(C) a health insurance provider or man-
21 aged care organization; or

22 “(D) a self-insured plan.

1 “(2) EXCEPTION.—The coverage provided
2 under paragraph (1) may not include coverage con-
3 sisting of—

4 “(A) benefits provided under a health flexi-
5 ble spending arrangement (as defined in section
6 106(c)(2) of the Internal Revenue Code of
7 1986); or

8 “(B) a high deductible health plan (as de-
9 fined in section 223(c)(2) of such Code), with-
10 out regard to whether the plan is purchased in
11 conjunction with a health savings account (as
12 defined under section 223(d) of such Code).

13 “(3) PERMITTING PURCHASE OF COVERAGE
14 BASED ON FINANCIAL NEED.—The purchase of cov-
15 erage by an Indian Tribe, Tribal Organization, or
16 Urban Indian Organization under this subsection
17 may be based on the financial needs of beneficiaries
18 (as determined by the Indian Tribe or Tribes being
19 served based on a schedule of income levels devel-
20 oped or implemented by such Indian Tribe or
21 Tribes).

In proposed section 406 of such Act, strike sub-
section (c) [page 205, lines 4 through 10].

Amend proposed section 407 of such Act [page 205,
lines 14 through 20] to read as follows:

1 **“SEC. 407. PAYOR OF LAST RESORT.**

2 “(a) IN GENERAL.—Subject to subsection (b), Indian
3 Health Programs and health care programs operated by
4 Urban Indian Organizations shall be the payor of last re-
5 sort for services provided to persons eligible for services
6 from Indian Health Programs and Urban Indian Organi-
7 zations, notwithstanding any Federal, State, or local law
8 to the contrary.

9 “(b) EXCEPTION.—Subsection (a) shall not apply to
10 services provided to individuals eligible for services from
11 the Department of Veterans Affairs or the Department
12 of Defense.

Strike proposed section 408 of such Act page 205,
line 21, through page 208, line 15.

[Strike proposed section 415 of such Act [page 213,
lines 17 through 21].

Amend proposed section 505(b) of such Act [page
224, lines 9 through 22] to read as follows:

13 “(b) EVALUATIONS.—The Secretary, acting through
14 the Service, shall evaluate the compliance of each Urban
15 Indian Organization which has entered into a contract or
16 received a grant under section 503 with the terms of such
17 contract or grant. For purposes of this evaluation, the

1 Secretary shall, acting through the Service, conduct an an-
2 nual onsite evaluation of the organization.

Amend proposed section 602(a)(2)(C) of such Act
[page 243, lines 10 through 12] to read as follows:

3 “(C) privacy protections consistent with
4 the regulations promulgated under section
5 264(c) of the Health Insurance Portability and
6 Accountability Act of 1996 or, to the extent
7 consistent with such regulations, other Federal
8 rules applicable to privacy of automated man-
9 agement information systems of a Federal
10 agency;

Amend proposed section 602(c) of such Act [page
244, lines 7 through 10] to read as follows:

11 “(c) ACCESS TO RECORDS.—The Service shall pro-
12 vide access of patients to their medical or health records
13 which are held by, or on behalf of, the Service in accord-
14 ance with the regulations promulgated under section
15 264(c) of the Health Insurance Portability and Account-
16 ability Act of 1996 or, to the extent consistent with such
17 regulations, other Federal rules applicable to access to
18 health care records.

Amend the heading of proposed section 706(d) of such Act [page 262, line 18] to read: “ALLOCATION OF FUNDS FOR URBAN INDIAN ORGANIZATIONS”.

Amend proposed section 715(8) of such Act [page 292, lines 14 through 17] to read as follows:

1 “(8) REHABILITATION.—The term ‘rehabilita-
2 tion’ means medical and health care services that—

3 “(A) are recommended by a physician or
4 licensed practitioner of the healing arts within
5 the scope of their practice under applicable law;

6 “(B) are furnished in a facility, home, or
7 other setting in accordance with applicable
8 standards; and

9 “(C) have as their purpose any of the fol-
10 lowing:

11 “(i) The maximum attainment of
12 physical, mental, and developmental func-
13 tioning.

14 “(ii) Averting deterioration in physical
15 or mental functional status.

16 “(iii) The maintenance of physical or
17 mental health functional status.

Amend proposed section 801(15) of such Act [page 295, lines 19 through 21] to read as follows:

1 “(15) A report providing an accounting of reim-
2 bursement funds made available to the Secretary
3 under programs under titles XVIII, XIX, and XXI
4 of the Social Security Act and including the fol-
5 lowing information:

6 “(A) The total number of Indians enrolled
7 in, or receiving items or services under, such
8 programs, disaggregated with respect to each
9 such program.

10 “(B) The number of Indians described in
11 subparagraph (A) who also received health ben-
12 efits under programs funded by the Indian
13 Health Service.

14 “(C) General information regarding the
15 health status of the Indians described in sub-
16 paragraph (A), disaggregated with respect to
17 specific diseases or conditions and presented in
18 a manner that is consistent with protections for
19 privacy of individually identifiable health infor-
20 mation under section 264(c) of the Health In-
21 surance Portability and Accountability Act of
22 1996.”.

Add at the end of proposed section 801 of such Act

[page 296, after line 10] the following new paragraph:

1 “(22) A report on the extent to which health
2 care facilities of the Service, Indian Tribes, Tribal
3 Organizations, and Urban Indian Organizations
4 comply with credentialing requirements of the Serv-
5 ice or licensure requirements of States.

In proposed section 802 of such Act, strike sub-
section (e) [page 298, lines 5 through 10].

In proposed section 803 of such Act [page 298, line
12], strike “Not later than 9 months” and insert “(a) IN
GENERAL.—Not later than 1 year”, and add at the end
[page 298, after line 21] the following new subsection:

6 “(b) LACK OF PLAN.—The lack of (or failure to sub-
7 mit) such a plan shall not limit the effect, or prevent the
8 implementation, of this Act.”.

Strike proposed section 804 of such Act [page 298,
lines 22-24; *drafting note*: to be consolidated on page
326; will result in redesignation of all subsequent sections
to be effected through “usual instructions”]

In proposed section 807(c)(1) of such Act [page
301, line 20], strike “who reside within the Service Unit”
and insert “who reside within the Service Area of the
Service Unit”.

Amend proposed section 813(j) of such Act [page 318, lines 17 through 19] to read as follows:

1 “(j) **TERMINATION.**—The Commission shall termi-
2 nate 90 days after the date of transmittal of its report
3 under subsection (b)(4).

Amend proposed section 814 of such Act [page 318,
line 20 through page 325, line 23] to read as follows:

4 **“SEC. 814. USE OF PATIENT SAFETY ORGANIZATIONS.**

5 “The Service, an Indian Tribe, Tribal Organization,
6 or Urban Indian Organization may provide for quality as-
7 surance activities through the use of a patient safety orga-
8 nization in accordance with title IX of the Public Health
9 Service Act.

Strike proposed sections 815 and 816 of such Act
[page 326, lines 1 through 11] and insert the following:

10 **“SEC. 815. PERMITTING IMPLEMENTATION THROUGH CON-**
11 **TRACTS WITH TRIBAL HEALTH PROGRAMS.**

12 “Nothing in this Act shall be construed as preventing
13 the Secretary from—

14 “(1) carrying out sections 203(b), 207, 208(b),
15 210(e)(1), 213(a), 214, 701(a)(1), 701(b)(1),
16 701(c), 701(e), 703(a)(1), 703(b)(1), 704(b),
17 704(c), 707(b)(1)(A), 707(c)(1), 707(f), 707(g),

1 709, 710(b), 711(a), 712(a)(1), 712(b), and 713(a)
2 through contracts with Tribal Health Programs; and
3 “(2) carrying out sections through 214,
4 701(a)(1), 701(b)(1), 701(c), 707(g), and 712(b),
5 through contracts with Urban Indian Organizations.
6 The previous sentence shall not affect the authority the
7 Secretary may otherwise have to carry out other provisions
8 of this Act through such contracts.

9 **“SEC. 816. AUTHORIZATION OF APPROPRIATIONS; AVAIL-**
10 **ABILITY.**

11 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as may be
13 necessary for each fiscal year through fiscal year 2017 to
14 carry out this title.

15 “(b) LIMITATION ON NEW SPENDING AUTHORITY.—
16 Any new spending authority (described in subparagraph
17 (A) or (B) of section 401(c)(2) of the Congressional Budg-
18 et Act of 1974 (Public Law 93–344; 88 Stat. 317)) which
19 is provided under this Act shall be effective for any fiscal
20 year only to such extent or in such amounts as are pro-
21 vided in appropriation Acts.

22 “(c) AVAILABILITY.—The funds appropriated pursu-
23 ant to this Act shall remain available until expended.”.

Amend sections 201 through 209 [page 341, line 14,
through page 387, line 4] to read as follows:

1 **SEC. 201. EXPANSION OF PAYMENTS UNDER MEDICARE,**
2 **MEDICAID, AND SCHIP FOR ALL COVERED**
3 **SERVICES FURNISHED BY INDIAN HEALTH**
4 **PROGRAMS.**

5 (a) MEDICAID.—

6 (1) EXPANSION TO ALL COVERED SERVICES.—

7 Section 1911 of the Social Security Act (42 U.S.C.
8 1396j) is amended—

9 (A) by amending the heading to read as
10 follows:

11 **“SEC. 1911. INDIAN HEALTH PROGRAMS.”; and**

12 (B) by amending subsection (a) to read as
13 follows:

14 “(a) ELIGIBILITY FOR PAYMENT FOR MEDICAL AS-
15 SISTANCE.—An Indian Health Program shall be eligible
16 for payment for medical assistance provided under a State
17 plan or under waiver authority with respect to items and
18 services furnished by the Program if the furnishing of
19 such services meets all the conditions and requirements
20 which are applicable generally to the furnishing of items
21 and services under this title and under such plan or waiver
22 authority.”.

23 (2) REPEAL OF OBSOLETE PROVISION.—Sub-
24 section (b) of such section is repealed.

1 (3) REVISION OF AUTHORITY TO ENTER INTO
2 AGREEMENTS.—Subsection (e) of such section is
3 amended to read as follows:

4 “(b) AUTHORITY TO ENTER INTO AGREEMENTS.—
5 The Secretary may enter into an agreement with a State
6 for the purpose of reimbursing the State for medical as-
7 sistance provided by an Indian Health Program to Indians
8 who are eligible for medical assistance under the State
9 plan or under waiver authority. This subsection shall not
10 be construed to impair the entitlement of a State to reim-
11 bursement for such medical assistance under this title.”.

12 (4) CROSS-REFERENCES TO SPECIAL FUND FOR
13 IMPROVEMENT OF IHS FACILITIES; DIRECT BILLING
14 OPTION; DEFINITIONS.—Such section is further
15 amended by striking subsection (d) and adding at
16 the end the following new subsections:

17 “(c) SPECIAL FUND FOR IMPROVEMENT OF IHS FA-
18 CILITIES.—For provisions relating to the authority of the
19 Secretary to place payments to which a facility of the In-
20 dian Health Service is eligible for payment under this title
21 into a special fund established under section 401(c)(1) of
22 the Indian Health Care Improvement Act, see subpara-
23 graphs (A) and (B) of section 401(c)(1) of such Act.

24 “(d) DIRECT BILLING.—For provisions relating to
25 the authority of an Tribal Health Program to elect to di-

1 rectly bill for, and receive payment for, health care items
2 and services provided by such Program for which payment
3 is made under this title, see section 401(d) of the Indian
4 Health Care Improvement Act.”.

5 (5) DEFINITIONS.—Section 1101(a) of such Act
6 (42 U.S.C. 1301(a)) is amended by adding at the
7 end the following new paragraph:

8 “(11) For purposes of this title and titles
9 XVIII, XIX, and XXI, the terms ‘Indian Health
10 Program’, ‘Indian Tribe’ (and ‘Indian tribe’), ‘Trib-
11 al Health Program’, ‘Tribal Organization’ (and ‘trib-
12 al organization’), and ‘Urban Indian Organization’
13 (and ‘urban Indian organization’) have the meanings
14 given those terms in section 4 of the Indian Health
15 Care Improvement Act.”.

16 (b) MEDICARE.—

17 (1) EXPANSION TO ALL COVERED SERVICES.—
18 Section 1880 of such Act (42 U.S.C. 1395qq) is
19 amended—

20 (A) by amending the heading to read as
21 follows:

22 **“SEC. 1880. INDIAN HEALTH PROGRAMS.”; and**

23 (B) by amending subsection (a) to read as
24 follows:

1 “(a) ELIGIBILITY FOR PAYMENTS.—Subject to sub-
2 section (e), an Indian Health Program shall be eligible for
3 payments under this title with respect to items and serv-
4 ices furnished by the Program if the furnishing of such
5 services meets all the conditions and requirements which
6 are applicable generally to the furnishing of items and
7 services under this title.”.

8 (2) REPEAL OF OBSOLETE PROVISION.—Sub-
9 section (b) of such section is repealed.

10 (3) CROSS-REFERENCES TO SPECIAL FUND FOR
11 IMPROVEMENT OF IHS FACILITIES; DIRECT BILLING
12 OPTION; DEFINITIONS.—

13 (A) IN GENERAL.—Such section is further
14 amended by striking subsections (c) and (d)
15 and inserting the following new subsections:

16 “(b) SPECIAL FUND FOR IMPROVEMENT OF IHS FA-
17 CILITIES.—For provisions relating to the authority of the
18 Secretary to place payments to which a facility of the In-
19 dian Health Service is eligible for payment under this title
20 into a special fund established under section 401(c)(1) of
21 the Indian Health Care Improvement Act, and the require-
22 ment to use amounts paid from such fund for making im-
23 provements in accordance with subsection (b), see sub-
24 paragraphs (A) and (B) of section 401(c)(1) of such Act.

1 “(c) DIRECT BILLING.—For provisions relating to
2 the authority of a Tribal Health Program to elect to di-
3 rectly bill for, and receive payment for, health care items
4 and services provided by such Program for which payment
5 is made under this title, see section 401(d) of the Indian
6 Health Care Improvement Act.”.

7 (B) CONFORMING AMENDMENTS.—Such
8 section is further amended—

9 (i) in subsection (e)(3), by striking
10 “Subsection (c)” and inserting “Subsection
11 (b) and section 401(b)(1) of the Indian
12 Health Care Improvement Act”;

13 (ii) by redesignating subsection (e) as
14 subsection (d); and

15 (iii) by striking subsection (f).

16 (c) APPLICATION TO SCHIP.—Section 2107(e)(1) of
17 the Social Security Act (42 U.S.C. 1397gg(e)(1)) is
18 amended—

19 (1) by redesignating subparagraph (D) as sub-
20 paragraph (E); and

21 (2) by inserting after subparagraph (C), the fol-
22 lowing new subparagraph:

23 “(D) Section 1911 (relating to Indian
24 Health Programs, other than subsection (c) of
25 such section).”.

1 **SEC. 202. INCREASED OUTREACH TO INDIANS UNDER MED-**
2 **ICAID AND SCHIP AND IMPROVED COOPERA-**
3 **TION IN THE PROVISION OF ITEMS AND**
4 **SERVICES TO INDIANS UNDER SOCIAL SECU-**
5 **RITY ACT HEALTH BENEFIT PROGRAMS.**

6 Section 1139 of the Social Security Act (42 U.S.C.
7 1320b–9) is amended to read as follows:

8 **“SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF,**
9 **HEALTH CARE FOR INDIANS UNDER TITLES**
10 **XVIII, XIX, AND XXI.**

11 **“(a) AGREEMENTS WITH STATES FOR MEDICAID**
12 **AND SCHIP OUTREACH ON OR NEAR RESERVATIONS TO**
13 **INCREASE THE ENROLLMENT OF INDIANS IN THOSE**
14 **PROGRAMS.—**

15 **“(1) IN GENERAL.—**In order to improve the ac-
16 cess of Indians residing on or near a reservation to
17 obtain benefits under the Medicaid and State chil-
18 dren’s health insurance programs established under
19 titles XIX and XXI, the Secretary, acting through
20 the Centers for Medicare & Medicaid Services, shall
21 encourage each State with all or part of a reserva-
22 tion within its borders to take steps to provide for
23 enrollment on or near such reservations. Such steps
24 may include outreach efforts such as the
25 outstationing of eligibility workers, entering into
26 agreements with the Indian Health Service, Indian

1 Tribes, Tribal Organizations, and Urban Indian Or-
2 ganizations to provide outreach, education regarding
3 eligibility and benefits, enrollment, and translation
4 services when such services are appropriate.

5 “(2) CONSTRUCTION.—Nothing in paragraph
6 (1) shall be construed as affecting arrangements en-
7 tered into between States and the Indian Health
8 Service, Indian Tribes, Tribal Organizations, or
9 Urban Indian Organizations for such Service,
10 Tribes, or Organizations to conduct administrative
11 activities under such titles.

12 “(b) FACILITATING COOPERATION IN ENROLLMENT
13 AND RETENTION.—The Secretary, acting through the
14 Centers for Medicare & Medicaid Services, shall consult
15 with States, the Service, Indian Tribes, Tribal Organiza-
16 tions, and Urban Indian Organizations to develop and dis-
17 seminate best practices with respect to facilitating agree-
18 ments between the States and Indian Tribes, Tribal Orga-
19 nizations, and Urban Indian Organizations relating to en-
20 rollment and retention of Indians in programs established
21 under titles XVIII, XIX, and XXI.”.

1 **SEC. 203. ADDITIONAL PROVISIONS TO INCREASE OUT-**
2 **REACH TO, AND ENROLLMENT OF, INDIANS**
3 **IN SCHIP AND MEDICAID.**

4 (a) NONAPPLICATION OF 10 PERCENT LIMIT ON
5 OUTREACH AND CERTAIN OTHER EXPENDITURES.—Sec-
6 tion 2105(c)(2) of the Social Security Act (42 U.S.C.
7 1397ee(c)(2)) is amended by adding at the end the fol-
8 lowing new subparagraph:

9 “(C) NONAPPLICATION TO EXPENDITURES
10 FOR OUTREACH TO INCREASE THE ENROLL-
11 MENT OF INDIAN CHILDREN UNDER THIS TITLE
12 AND TITLE XIX.—The limitation under sub-
13 paragraph (A) on expenditures for items de-
14 scribed in subsection (a)(1)(D) shall not apply
15 in the case of expenditures for outreach activi-
16 ties to families of Indian children likely to be el-
17 igible for child health assistance under the plan
18 or medical assistance under the State plan
19 under title XIX (or under a waiver of such
20 plan), to inform such families of the availability
21 of, and to assist them in enrolling their children
22 in, such plans, including such activities con-
23 ducted under grants, contracts, or agreements
24 entered into under section 1139(a).”.

25 (b) ASSURANCE OF PAYMENTS TO INDIAN HEALTH
26 CARE PROVIDERS FOR CHILD HEALTH ASSISTANCE.—

1 Section 2102(b)(3)(D) of such Act (42 U.S.C.
2 1397bb(b)(3)(D)) is amended by striking “(as defined in
3 section 4(c) of the Indian Health Care Improvement Act,
4 25 U.S.C. 1603(c))” and inserting “, including how the
5 State will ensure that payments are made to Indian
6 Health Programs and Urban Indian Organizations oper-
7 ating in the State for the provision of such assistance”.

8 (c) INCLUSION OF OTHER INDIAN FINANCED
9 HEALTH CARE PROGRAMS IN EXEMPTION FROM PROHI-
10 BITION ON CERTAIN PAYMENTS.—Section 2105(c)(6)(B)
11 of such Act (42 U.S.C. 1397ee(c)(6)(B)) is amended by
12 striking “insurance program, other than an insurance pro-
13 gram operated or financed by the Indian Health Service”
14 and inserting “program, other than a health care program
15 operated or financed by the Indian Health Service or by
16 an Indian Tribe, Tribal Organization, or Urban Indian
17 Organization”.

18 (d) SATISFACTION OF MEDICAID DOCUMENTATION
19 REQUIREMENTS.—

20 (1) IN GENERAL.—Subject to paragraph (3),
21 section 1903(x)(3)(B) of the Social Security Act (42
22 U.S.C. 1396b(x)(3)(B)) is amended—

23 (A) by redesignating clause (v) as clause
24 (vi); and

1 (B) by inserting after clause (iv), the fol-
2 lowing new clause:

3 “(v)(I) Except as provided in subclause (II), a
4 document issued by a federally-recognized Indian
5 tribe evidencing membership or enrollment in, or af-
6 filiation with, such tribe (such as a tribal enrollment
7 card or certificate of degree of Indian blood).

8 “(II) With respect to those federally-recognized
9 Indian tribes located within States having an inter-
10 national border whose membership includes individ-
11 uals who are not citizens of the United States, the
12 Secretary shall, after consulting with such tribes,
13 issue regulations authorizing the presentation of
14 such other forms of documentation (including tribal
15 documentation, if appropriate) that the Secretary
16 determines to be satisfactory documentary evidence
17 of citizenship or nationality for purposes of satis-
18 fying the requirement of this subsection.”.

19 (2) TRANSITION RULE.—During the period that
20 begins on July 1, 2006, and ends on the effective
21 date of final regulations issued under subclause (II)
22 of section 1903(x)(3)(B)(v) of the Social Security
23 Act (42 U.S.C. 1396b(x)(3)(B)(v)) (as added by
24 paragraph (1)), an individual who is a member of a
25 federally-recognized Indian tribe described in sub-

1 clause (II) of that section who presents a document
2 described in subclause (I) of such section that is
3 issued by such Indian tribe, shall be deemed to have
4 presented satisfactory evidence of citizenship or na-
5 tionality for purposes of satisfying the requirement
6 of subsection (x) of section 1903 of such Act.

7 (3) COORDINATION.— The amendments made
8 by paragraph (1) shall not be executed if the Chil-
9 dren’s Health Insurance Program Reauthorization
10 Act of 2007 is enacted before the date of the enact-
11 ment of this Act.

12 **SEC. 204. PREMIUMS AND COST SHARING PROTECTIONS**
13 **UNDER MEDICAID, ELIGIBILITY DETERMINA-**
14 **TIONS UNDER MEDICAID AND SCHIP, AND**
15 **PROTECTION OF CERTAIN INDIAN PROPERTY**
16 **FROM MEDICAID ESTATE RECOVERY.**

17 (a) PREMIUMS AND COST SHARING PROTECTION
18 UNDER MEDICAID.—

19 (1) IN GENERAL.—Section 1916 of the Social
20 Security Act (42 U.S.C. 1396o) is amended—

21 (A) in subsection (a), in the matter pre-
22 ceding paragraph (1), by striking “and (i)” and
23 inserting “, (i), and (j)”; and

24 (B) by adding at the end the following new
25 subsection:

1 “(j) NO PREMIUMS OR COST SHARING FOR INDIANS
2 FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN
3 HEALTH PROGRAMS OR THROUGH REFERRAL UNDER
4 CONTRACT HEALTH SERVICES.—

5 “(1) NO COST SHARING FOR ITEMS OR SERV-
6 ICES FURNISHED TO INDIANS THROUGH INDIAN
7 HEALTH PROGRAMS.—

8 “(A) IN GENERAL.—No enrollment fee,
9 premium, or similar charge, and no deduction,
10 copayment, cost sharing, or similar charge shall
11 be imposed against an Indian who is furnished
12 an item or service directly by the Indian Health
13 Service, an Indian Tribe, Tribal Organization,
14 or Urban Indian Organization or through refer-
15 ral under contract health services for which
16 payment may be made under this title.

17 “(B) NO REDUCTION IN AMOUNT OF PAY-
18 MENT TO INDIAN HEALTH PROVIDERS.—Pay-
19 ment due under this title to the Indian Health
20 Service, an Indian Tribe, Tribal Organization,
21 or Urban Indian Organization, or a health care
22 provider through referral under contract health
23 services for the furnishing of an item or service
24 to an Indian who is eligible for assistance under
25 such title, may not be reduced by the amount

1 of any enrollment fee, premium, or similar
2 charge, or any deduction, copayment, cost shar-
3 ing, or similar charge that would be due from
4 the Indian but for the operation of subpara-
5 graph (A).

6 “(2) RULE OF CONSTRUCTION.—Nothing in
7 this subsection shall be construed as restricting the
8 application of any other limitations on the imposi-
9 tion of premiums or cost sharing that may apply to
10 an individual receiving medical assistance under this
11 title who is an Indian.”.

12 (2) CONFORMING AMENDMENT.—Section
13 1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3))
14 is amended—

15 (A) in subparagraph (A), by adding at the
16 end the following new clause:

17 “(vi) An Indian who is furnished an
18 item or service directly by the Indian
19 Health Service, an Indian Tribe, Tribal
20 Organization or Urban Indian Organiza-
21 tion or through referral under contract
22 health services.”; and

23 (B) in subparagraph (B), by adding at the
24 end the following new clause:

1 “(ix) Items and services furnished to
2 an Indian directly by the Indian Health
3 Service, an Indian Tribe, Tribal Organiza-
4 tion or Urban Indian Organization or
5 through referral under contract health
6 services.”.

7 (b) TREATMENT OF CERTAIN PROPERTY FROM RE-
8 SOURCES FOR MEDICAID AND SCHIP ELIGIBILITY.—

9 (1) MEDICAID.—Section 1902 of the Social Se-
10 curity Act (42 U.S.C. 1396a) is amended by adding
11 at the end the following new subsection:

12 “(dd) Notwithstanding any other requirement of this
13 title or any other provision of Federal or State law, a State
14 shall disregard the following property from resources for
15 purposes of determining the eligibility of an individual who
16 is an Indian for medical assistance under this title:

17 “(1) Property, including real property and im-
18 provements, that is held in trust, subject to Federal
19 restrictions, or otherwise under the supervision of
20 the Secretary of the Interior, located on a reserva-
21 tion, including any federally recognized Indian
22 Tribe’s reservation, pueblo, or colony, including
23 former reservations in Oklahoma, Alaska Native re-
24 gions established by the Alaska Native Claims Set-
25 tlement Act, and Indian allotments on or near a res-

1 ervation as designated and approved by the Bureau
2 of Indian Affairs of the Department of the Interior.

3 “(2) For any federally recognized Tribe not de-
4 scribed in paragraph (1), property located within the
5 most recent boundaries of a prior Federal reserva-
6 tion.

7 “(3) Ownership interests in rents, leases, royal-
8 ties, or usage rights related to natural resources (in-
9 cluding extraction of natural resources or harvesting
10 of timber, other plants and plant products, animals,
11 fish, and shellfish) resulting from the exercise of fed-
12 erally protected rights.

13 “(4) Ownership interests in or usage rights to
14 items not covered by paragraphs (1) through (3)
15 that have unique religious, spiritual, traditional, or
16 cultural significance or rights that support subsist-
17 ence or a traditional lifestyle according to applicable
18 tribal law or custom.”.

19 (2) APPLICATION TO SCHIP.—Section
20 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is
21 amended—

22 (A) by redesignating subparagraphs (B)
23 through (E), as subparagraphs (C) through
24 (F), respectively; and

1 (B) by inserting after subparagraph (A),
2 the following new subparagraph:

3 “(B) Section 1902(dd) (relating to dis-
4 regard of certain property for purposes of mak-
5 ing eligibility determinations).”.

6 (c) CONTINUATION OF CURRENT LAW PROTECTIONS
7 OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE
8 RECOVERY.—Section 1917(b)(3) of the Social Security
9 Act (42 U.S.C. 1396p(b)(3)) is amended—

10 (1) by inserting “(A)” after “(3)”; and

11 (2) by adding at the end the following new sub-
12 paragraph:

13 “(B) The standards specified by the Sec-
14 retary under subparagraph (A) shall require
15 that the procedures established by the State
16 agency under subparagraph (A) exempt income,
17 resources, and property that are exempt from
18 the application of this subsection as of April 1,
19 2003, under manual instructions issued to carry
20 out this subsection (as in effect on such date)
21 because of the Federal responsibility for Indian
22 Tribes and Alaska Native Villages. Nothing in
23 this subparagraph shall be construed as pre-
24 venting the Secretary from providing additional

1 estate recovery exemptions under this title for
2 Indians.”.

3 **SEC. 205. CONSULTATION ON MEDICAID, SCHIP, AND**
4 **OTHER HEALTH CARE PROGRAMS FUNDED**
5 **UNDER THE SOCIAL SECURITY ACT INVOLV-**
6 **ING INDIAN HEALTH PROGRAMS AND URBAN**
7 **INDIAN ORGANIZATIONS.**

8 (a) IN GENERAL.—Section 1139 of the Social Secu-
9 rity Act (42 U.S.C. 1320b–9), as amended by sections 202
10 and 205, is amended by redesignating subsection (d) as
11 subsection (e), and inserting after subsection (c) the fol-
12 lowing new subsection:

13 “(d) CONSULTATION WITH TRIBAL TECHNICAL AD-
14 VISORY GROUP (TTAG).—The Secretary shall maintain
15 within the Centers for Medicaid & Medicare Services
16 (CMS) a Tribal Technical Advisory Group, which was first
17 established in accordance with requirements of the charter
18 dated September 30, 2003, and the Secretary shall include
19 in such Group a representative of the Urban Indian Orga-
20 nizations and the Service. The representative of the Urban
21 Indian Organization shall be deemed to be an elected offi-
22 cer of a tribal government for purposes of applying section
23 204(b) of the Unfunded Mandates Reform Act of 1995
24 (2 U.S.C. 1534(b)).”.

1 (b) SOLICITATION OF ADVICE UNDER MEDICAID AND
2 SCHIP.—

3 (1) MEDICAID STATE PLAN AMENDMENT.—Sec-
4 tion 1902(a) of the Social Security Act (42 U.S.C.
5 1396a(a)) is amended—

6 (A) in paragraph (69), by striking “and”
7 at the end;

8 (B) in paragraph (70)(B)(iv), by striking
9 the period at the end and inserting “; and”;
10 and

11 (C) by inserting after paragraph
12 (70)(B)(iv), the following new paragraph:

13 “(71) in the case of any State in which 1 or
14 more Indian Health Programs or Urban Indian Or-
15 ganizations furnishes health care services, provide
16 for a process under which the State seeks advice on
17 a regular, ongoing basis from designees of such In-
18 dian Health Programs and Urban Indian Organiza-
19 tions on matters relating to the application of this
20 title that are likely to have a direct effect on such
21 Indian Health Programs and Urban Indian Organi-
22 zations and that—

23 “(A) shall include solicitation of advice
24 prior to submission of any plan amendments,
25 waiver requests, and proposals for demonstra-

1 tion projects likely to have a direct effect on In-
2 dians, Indian Health Programs, or Urban In-
3 dian Organizations; and

4 “(B) may include appointment of an advi-
5 sory committee and of a designee of such In-
6 dian Health Programs and Urban Indian Orga-
7 nizations to the medical care advisory com-
8 mittee advising the State on its State plan
9 under this title.”.

10 (2) APPLICATION TO SCHIP.—Section
11 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as
12 amended by section 204(b)(2), is amended—

13 (A) by redesignating subparagraphs (B)
14 through (F) as subparagraphs (C) through (G),
15 respectively; and

16 (B) by inserting after subparagraph (A),
17 the following new subparagraph:

18 “(B) Section 1902(a)(71) (relating to re-
19 quiring certain States to seek advice from des-
20 ignees of Indian Health Programs and Urban
21 Indian Organizations).”.

22 (c) RULE OF CONSTRUCTION.—Nothing in the
23 amendments made by this section shall be construed as
24 superseding existing advisory committees, working groups,
25 guidance, or other advisory procedures established by the

1 Secretary of Health and Human Services or by any State
2 with respect to the provision of health care to Indians.

3 **SEC. 206. SOLICITATION OF PROPOSALS FOR SAFE HAR-**
4 **BORS UNDER THE SOCIAL SECURITY ACT**
5 **FOR FACILITIES OF INDIAN HEALTH PRO-**
6 **GRAMS AND URBAN INDIAN ORGANIZATIONS.**

7 The Secretary of Health and Human Services, acting
8 through the Office of the Inspector General of the Depart-
9 ment of Health and Human Services, shall publish a no-
10 tice, described in section 1128D(a)(1)(A) of the Social Se-
11 curity Act (42 U.S.C. 1320a-7d(a)(1)(A)), soliciting a pro-
12 posal, not later than July 1, 2008, on the development
13 of safe harbors described in such section relating to health
14 care items and services provided by facilities of Indian
15 Health Programs or an Urban Indian Organization (as
16 such terms are defined in section 4 of the Indian Health
17 Care Improvement Act). Such a safe harbor may relate
18 to areas such as transportation, housing, or cost-sharing,
19 assistance provided through such facilities or contract
20 health services for Indians.

1 **SEC. 207. RULES APPLICABLE UNDER MEDICAID AND**
2 **SCHIP TO MANAGED CARE ENTITIES WITH**
3 **RESPECT TO INDIAN ENROLLEES AND IN-**
4 **DIAN HEALTH CARE PROVIDERS AND INDIAN**
5 **MANAGED CARE ENTITIES.**

6 (a) IN GENERAL.—Section 1932 of the Social Secu-
7 rity Act (42 U.S.C. 1396u–2) is amended by adding at
8 the end the following new subsection:

9 “(h) SPECIAL RULES WITH RESPECT TO INDIAN EN-
10 ROLLEES, INDIAN HEALTH CARE PROVIDERS, AND IN-
11 DIAN MANAGED CARE ENTITIES.—

12 “(1) ENROLLEE OPTION TO SELECT AN INDIAN
13 HEALTH CARE PROVIDER AS PRIMARY CARE PRO-
14 VIDER.—In the case of a non-Indian Medicaid man-
15 aged care entity that—

16 “(A) has an Indian enrolled with the enti-
17 ty; and

18 “(B) has an Indian health care provider
19 that is participating as a primary care provider
20 within the network of the entity,

21 insofar as the Indian is otherwise eligible to receive
22 services from such Indian health care provider and
23 the Indian health care provider has the capacity to
24 provide primary care services to such Indian, the
25 contract with the entity under section 1903(m) or
26 under section 1905(t)(3) shall require, as a condi-

1 tion of receiving payment under such contract, that
2 the Indian shall be allowed to choose such Indian
3 health care provider as the Indian's primary care
4 provider under the entity.

5 “(2) ASSURANCE OF PAYMENT TO INDIAN
6 HEALTH CARE PROVIDERS FOR PROVISION OF COV-
7 ERED SERVICES.—Each contract with a managed
8 care entity under section 1903(m) or under section
9 1905(t)(3) shall require any such entity, as a condi-
10 tion of receiving payment under such contract, to
11 satisfy the following requirements:

12 “(A) DEMONSTRATION OF PARTICIPATING
13 INDIAN HEALTH CARE PROVIDERS OR APPLICA-
14 TION OF ALTERNATIVE PAYMENT ARRANGE-
15 MENTS.—Subject to subparagraph (E), to—

16 “(i) demonstrate that the number of
17 Indian health care providers that are par-
18 ticipating providers with respect to such
19 entity are sufficient to ensure timely access
20 to covered Medicaid managed care services
21 for those Indian enrollees who are eligible
22 to receive services from such providers; and

23 “(ii) agree to pay Indian health care
24 providers for covered Medicaid managed
25 care services provided to those Indian en-

1 rollees who are eligible to receive services
2 from such providers at a rate equal to the
3 rate negotiated between such entity and
4 the provider involved or, if such a rate has
5 not been negotiated, at a rate that is not
6 less than the level and amount of payment
7 which the entity would make for the serv-
8 ices if the services were furnished by a par-
9 ticipating provider which is not an Indian
10 health care provider.

11 “(B) PROMPT PAYMENT.—To agree to
12 make prompt payment (consistent with rule for
13 prompt payment of providers under section
14 1932(f)) to Indian health care providers that
15 are participating providers with respect to such
16 entity or, in the case of an entity to which sub-
17 paragraph (A)(ii) or (E) applies, that the entity
18 is required to pay in accordance with that sub-
19 paragraph.

20 “(C) APPLICATION OF SPECIAL PAYMENT
21 REQUIREMENTS FOR FEDERALLY-QUALIFIED
22 HEALTH CENTERS FOR SERVICES PROVIDED BY
23 CERTAIN INDIAN HEALTH CARE PROVIDERS.—

24 “(i) FEDERALLY-QUALIFIED HEALTH
25 CENTERS.—

1 “(I) MANAGED CARE ENTITY
2 PAYMENT REQUIREMENT.—To agree
3 to pay any Indian health care provider
4 that is a federally-qualified health
5 center but not a participating provider
6 with respect to the entity, for the pro-
7 vision of covered Medicaid managed
8 care services by such provider to an
9 Indian enrollee of the entity at a rate
10 equal to the amount of payment that
11 the entity would pay a federally-quali-
12 fied health center that is a partici-
13 pating provider with respect to the en-
14 tity but is not an Indian health care
15 provider for such services.

16 “(II) CONTINUED APPLICATION
17 OF STATE REQUIREMENT TO MAKE
18 SUPPLEMENTAL PAYMENT.—Nothing
19 in subclause (I) or subparagraph (A)
20 or (B) shall be construed as waiving
21 the application of section 1902(bb)(5)
22 regarding the State plan requirement
23 to make any supplemental payment
24 due under such section to a federally-
25 qualified health center for services

1 furnished by such center to an en-
2 rollee of a managed care entity (re-
3 gardless of whether the federally-
4 qualified health center is or is not a
5 participating provider with the entity).

6 “(ii) PAYMENT RATE FOR SERVICES
7 PROVIDED BY CERTAIN INDIAN HEALTH
8 CARE PROVIDERS.—If the amount paid by
9 a managed care entity to an Indian health
10 care provider that is not a federally-quali-
11 fied health center for services provided by
12 such provider to an Indian enrollee with
13 the managed care entity is less than the
14 rate that applies to the provision of such
15 services under the State plan, such plan
16 shall provide for payment to the Indian
17 health care provider of the difference be-
18 tween the applicable rate and the amount
19 paid by the managed care entity to the
20 provider for such services.

21 “(D) CONSTRUCTION.—Nothing in this
22 paragraph shall be construed as waiving the ap-
23 plication of section 1902(a)(30)(A) (relating to
24 application of standards to assure that pay-

1 ments are consistent with efficiency, economy,
2 and quality of care).

3 “(3) SPECIAL RULE FOR ENROLLMENT FOR IN-
4 DIAN MANAGED CARE ENTITIES.—Regarding the ap-
5 plication of a Medicaid managed care program to In-
6 dian Medicaid managed care entities, an Indian
7 Medicaid managed care entity may restrict enroll-
8 ment under such program to Indians and to mem-
9 bers of specific Tribes in the same manner as Indian
10 Health Programs may restrict the delivery of serv-
11 ices to such Indians and tribal members.

12 “(4) DEFINITIONS.—For purposes of this sub-
13 section:

14 “(A) INDIAN HEALTH CARE PROVIDER.—
15 The term ‘Indian health care provider’ means
16 an Indian Health Program or an Urban Indian
17 Organization.

18 “(B) INDIAN MEDICAID MANAGED CARE
19 ENTITY.—The term ‘Indian Medicaid managed
20 care entity’ means a managed care entity that
21 is controlled (within the meaning of the last
22 sentence of section 1903(m)(1)(C)) by the In-
23 dian Health Service, a Tribe, Tribal Organiza-
24 tion, or Urban Indian Organization, or a con-
25 sortium, which may be composed of 1 or more

1 Tribes, Tribal Organizations, or Urban Indian
2 Organizations, and which also may include the
3 Service.

4 “(C) NON-INDIAN MEDICAID MANAGED
5 CARE ENTITY.—The term ‘non-Indian Medicaid
6 managed care entity’ means a managed care en-
7 tity that is not an Indian Medicaid managed
8 care entity.

9 “(D) COVERED MEDICAID MANAGED CARE
10 SERVICES.—The term ‘covered Medicaid man-
11 aged care services’ means, with respect to an
12 individual enrolled with a managed care entity,
13 items and services for which benefits are avail-
14 able with respect to the individual under the
15 contract between the entity and the State in-
16 volved.

17 “(E) MEDICAID MANAGED CARE PRO-
18 GRAM.—The term ‘Medicaid managed care pro-
19 gram’ means a program under sections
20 1903(m), 1905(t), and 1932 and includes a
21 managed care program operating under a waiv-
22 er under section 1915(b) or 1115 or other-
23 wise.”.

24 (b) APPLICATION TO SCHIP.—Section 2107(e)(1) of
25 such Act (42 U.S.C. 1397gg(1)), as amended by section

1 206(b)(2), is amended by adding at the end the following
2 new subparagraph:

3 “(H) Subsections (a)(2)(C) and (h) of sec-
4 tion 1932.”.

5 **SEC. 208. COLLECTION OF INFORMATION ON INDIANS**
6 **SERVED UNDER MEDICARE, MEDICAID, AND**
7 **CHIP.**

8 Section 1139 of the Social Security Act (42 U.S.C.
9 1320b–9), as previously amended, is amended by redesignig-
10 nating subsection (e) as subsection (f), and inserting after
11 subsection (d) the following new subsection:

12 “(e) COLLECTION OF INFORMATION ON INDIANS
13 SERVED UNDER MEDICARE, MEDICAID, AND CHIP.—
14 The Secretary , acting through the Administrator of the
15 Centers for Medicare & Medicaid Services and the Direc-
16 tor of the Indian Health Service, shall collect data on the
17 provision of items and services to Indians under titles
18 XVIII, XIX, and XXI in a manner that permits the re-
19 porting of information under section 801(15) of the Indian
20 Health Care Improvement Act.”.