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2D SESSION

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 29, 1998

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

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## A BILL

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

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Alaska Native and  
5       American Indian Direct Reimbursement Act of 1998”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

1           (1) In 1988, Congress enacted section 405 of  
2           the Indian Health Care Improvement Act (25 U.S.C.  
3           1645) that established a demonstration program to  
4           authorize 4 tribally-operated Indian Health Service  
5           hospitals or clinics to test methods for direct billing  
6           and receipt of payment for health services provided  
7           to patients eligible for reimbursement under the  
8           medicare or medicaid programs under titles XVIII  
9           and XIX of the Social Security Act (42 U.S.C. 1395  
10          et seq.; 1396 et seq.), and other third-party payors.

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

23          (3) The success of the demonstration program  
24          confirms that the direct involvement of tribes and  
25          tribal organizations in the direct billing of, and col-

1       lection of payments from, the medicare and medicaid  
2       programs, and other third payor reimbursements, is  
3       more beneficial to Indian tribes than the current  
4       system of Indian Health Service-managed collec-  
5       tions.

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

16          (5) The demonstration program was originally  
17      to expire on September 30, 1996, but was extended  
18      by Congress to September 30, 1998, so that the cur-  
19      rent participants would not experience an interrup-  
20      tion in the program while Congress awaited a rec-  
21      ommendation from the Secretary of Health and  
22      Human Services on whether to make the program  
23      permanent.

24          (6) It would be beneficial to the Indian Health  
25      Service and to Indian tribes, tribal organizations,

1 and Alaska Native organizations to provide perma-  
 2 nent status to the demonstration program and to ex-  
 3 tend participation in the program to other Indian  
 4 tribes, tribal organizations, and Alaska Native  
 5 health organizations who operate a facility of the In-  
 6 dian Health Service.

7 **SEC. 3. DIRECT BILLING OF MEDICARE, MEDICAID, AND**  
 8 **OTHER THIRD PARTY PAYORS.**

9 (a) PERMANENT AUTHORIZATION.—Section 405 of  
 10 the Indian Health Care Improvement Act (25 U.S.C.  
 11 1645) is amended to read as follows:

12 “(a) ESTABLISHMENT OF DIRECT BILLING  
 13 PROGRAM.—

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

1 approved under title XIX of the Social Security Act  
2 (42 U.S.C. 1396 et seq.) (in this section referred  
3 to as the ‘medicaid program’), or from any other  
4 third party payor.

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

6 The third sentence of section 1905(b) of the Social  
7 Security Act (42 U.S.C. 1396d(b)) shall apply for  
8 purposes of reimbursement under the medicaid pro-  
9 gram for health care services directly billed under  
10 the program established under this section.

11 “(b) DIRECT REIMBURSEMENT.—

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

1 excess of the amount necessary to achieve or main-  
2 tain such conditions shall be used—

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

5 “(B) in accordance with the regulations of  
6 the Service applicable to funds provided by the  
7 Service under any contract entered into under  
8 the Indian Self-Determination Act (25 U.S.C.  
9 450f et seq.).

10 “(2) AUDITS.—The amounts paid to the hos-  
11 pitals and clinics participating in the program estab-  
12 lished under this section shall be subject to all audit-  
13 ing requirements applicable to programs adminis-  
14 tered directly by the Service and to facilities partici-  
15 pating in the medicare and medicaid programs.

16 “(3) SECRETARIAL OVERSIGHT.—

17 “(A) QUARTERLY REPORTS.—Subject to  
18 subparagraph (B), the Secretary shall monitor  
19 the performance of hospitals and clinics partici-  
20 pating in the program established under this  
21 section, and shall require such hospitals and  
22 clinics to submit reports on the program to the  
23 Secretary on a quarterly basis during the first  
24 2 years of participation in the program and an-  
25 nually thereafter.

1                   “(B) ANNUAL REPORTS.—Any participant  
 2                   in the demonstration program authorized under  
 3                   this section as in effect on the day before the  
 4                   date of enactment of the Alaska Native and  
 5                   American Indian Direct Reimbursement Act of  
 6                   1998 shall only be required to submit annual  
 7                   reports under this paragraph.

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

16                  “(c) REQUIREMENTS FOR PARTICIPATION.—

17                  “(1) APPLICATION.—Except as provided in  
 18                  paragraph (2)(B), in order to be eligible for partici-  
 19                  pation in the program established under this section,  
 20                  an Indian tribe, tribal organization, or Alaska Na-  
 21                  tive health organization shall submit an application  
 22                  to the Secretary that establishes to the satisfaction  
 23                  of the Secretary that—

24                         “(A) the Indian tribe, tribal organization,  
 25                         or Alaska Native health organization contracts

1 or compacts for the operation of a facility of the  
2 Service;

3 “(B) the facility is eligible to participate in  
4 the medicare or medicaid programs under sec-  
5 tion 1880 or 1911 of the Social Security Act  
6 (42 U.S.C. 1395qq; 1396j);

7 “(C) the facility meets the requirements  
8 that apply to programs operated directly by the  
9 Service; and

10 “(D) the facility is accredited by an ac-  
11 crediting body designated by the Secretary or  
12 has submitted a plan, which has been approved  
13 by the Secretary, for achieving such accredita-  
14 tion.

15 “(2) APPROVAL.—

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

22 “(B) GRANDFATHER OF DEMONSTRATION  
23 PROGRAM PARTICIPANTS.—Any participant in  
24 the demonstration program authorized under  
25 this section as in effect on the day before the



1 date of enactment of the Alaska Native and  
 2 American Indian Direct Reimbursement Act of  
 3 1998 shall be deemed approved for participa-  
 4 tion in the program established under this sec-  
 5 tion and shall not be required to submit an ap-  
 6 plication in order to participate in the program.

7 “(C) DURATION.—An approval by the Sec-  
 8 retary of a qualified application under subpara-  
 9 graph (A), or a deemed approval of a dem-  
 10 onstration program under subparagraph (B),  
 11 shall continue in effect as long as the approved  
 12 applicant or the deemed approved demonstra-  
 13 tion program meets the requirements of this  
 14 section.

15 “(d) EXAMINATION AND IMPLEMENTATION OF  
 16 CHANGES.—

17 “(1) IN GENERAL.—The Secretary, acting  
 18 through the Service, and with the assistance of the  
 19 Administrator of the Health Care Financing Admin-  
 20 istration, shall examine on an ongoing basis and im-  
 21 plement—

22 “(A) any administrative changes that may  
 23 be necessary to facilitate direct billing and re-  
 24 imbursement under the program established  
 25 under this section, including any agreements

1 with States that may be necessary to provide  
2 for direct billing under the medicaid program;  
3 and

4 “(B) any changes that may be necessary to  
5 enable participants in the program established  
6 under this section to provide to the Service  
7 medical records information on patients served  
8 under the program that is consistent with the  
9 medical records information system of the Serv-  
10 ice.

11 “(2) ACCOUNTING INFORMATION.—The ac-  
12 counting information that a participant in the pro-  
13 gram established under this section shall be required  
14 to report shall be the same as the information re-  
15 quired to be reported by participants in the dem-  
16 onstration program authorized under this section as  
17 in effect on the day before the date of enactment of  
18 the Alaska Native and American Indian Direct Re-  
19 imbursement Act of 1998. The Secretary may from  
20 time to time, after consultation with the program  
21 participants, change the accounting information sub-  
22 mission requirements.

23 “(e) WITHDRAWAL FROM PROGRAM.—A participant  
24 in the program established under this section may with-  
25 draw from participation in the same manner and under

1 the same conditions that a tribe or tribal organization may  
2 retrocede a contracted program to the Secretary under au-  
3 thority of the Indian Self-Determination Act (25 U.S.C.  
4 450 et seq.). All cost accounting and billing authority  
5 under the program established under this section shall be  
6 returned to the Secretary upon the Secretary's acceptance  
7 of the withdrawal of participation in this program.”.

8 (b) CONFORMING AMENDMENTS.—

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

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

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

22 “(d) For provisions relating to the authority of cer-  
23 tain Indian tribes, tribal organizations, and Alaska Native  
24 health organizations to elect to directly bill for, and receive  
25 payment for, health care services provided by a hospital

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

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on October 1, 1998.

