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SENATE

{ REPORT
108-76

ELEVATING THE POSITION OF DIRECTOR OF THE INDIAN HEALTH SERVICE WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ASSISTANT SECRETARY FOR INDIAN HEALTH, AND FOR OTHER PURPOSES

JUNE 18, 2003.—Ordered to be printed

Mr. CAMPBELL, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 558]

The Committee on Indian Affairs, to which was referred the bill (S. 558) to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 558 is to elevate the position of the Director of the Indian Health Service to the status of an Assistant Secretary within the Department of Health and Human Services. The bill establishes the Office of Assistant Secretary for Indian Health in order to further the unique government-to-government relationship between Indian tribes and the United States, facilitate advocacy for the development of Indian health policy, and promote consultation on matters related to Indian health.

BACKGROUND

In exchange for ceding millions of acres of land to which Indian tribes held aboriginal title, the United States entered into treaties with the Indian tribes. Many of the treaties provided that health care services would be provided to the citizens of Indian tribes. Some have asserted that these contracts between the United States and Indian governments represent the “first pre-paid health care plan” in America.

The Federal obligation to provide health care services to Indians also arises out of the special trust relationship between the United States and Indian tribes, which reflects the authority found in Article I, Section 8, clause 3 of the U.S. Constitution, and which has been given form and substance by numerous treaties, laws, Supreme Court decisions, and Executive Orders.

The first Federal statute authorizing the appropriation of funds to carry out the United States' responsibilities was the Snyder Act of 1921 (25 U.S.C. 13). In 1976, the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) (IHCIA) became law. The IHCIA was the first comprehensive statute specifically addressing the provision of health care to Indians and the Federal administration of health care.

A. EVOLUTION OF THE INDIAN HEALTH SERVICE

The Bureau of Indian Affairs within the U.S. Department of the Interior was initially charged with carrying out the United States responsibility for the provision of health care to Federally-recognized tribes and their members.

In 1954, in response to a growing concern by the public health community that the Indian health care responsibility should be transferred to his authority, the Surgeon General, acting through the Public Health Service (PHS), established the Division of Indian Health (DIH) to administer the Indian health program.

In 1968, the Division became the Indian Health Service (IHS) and operated as a sub-agency of other agencies within the Public Health Service including the Health Resources and Services Administration.

In 1988, the Indian Health Service was established as a separate agency within the Public Health Service.

On October 1, 1995, the Department of Health and Human Services (DHHS) reorganized its internal administrative structure and the Indian Health Service, along with the other agencies of the Public Health Service, became a separate operating division of the Department.

Presently, the Director of the Indian Health Service is appointed by the President and is subject to Senate confirmation pursuant to 25 U.S.C. 1661(a). Under current law, the IHS Director reports to the DHHS Secretary through the Assistant Secretary for Health.

Since the 1995 reorganization of the DHHS, all agencies, operating divisions, and programs within the Department, including those previously part of the Public Health Service and under the direction of the Assistant Secretary for Health, have been required to report directly to the Secretary. Under the DHHS restructuring, the position of Assistant Secretary for Health was combined with the position of Surgeon General and the Office of Public Health and Science (OPHS) was established. The Assistant Secretary for Health directs the OPHS, serves as the Secretary's senior advisor for public health and science, and provides leadership and coordination across the Department on public health and science issues.

A key component to the IHS health care system is the Public Health Service's Commissioned Corps. The Corps was established by the Congress in 1889 as part of the Marine Hospital Service, which later became the Public Health Service. The original mission of the Corps was to provide medical care to sick and disabled navy

and merchant seamen. While the Corps' duties were expanded during World Wars I and II, its original mission now serves as the basis for its continuing status as a uniformed service. The Surgeon General is statutorily responsible for supervising the activities of the Commissioned Corps. The Corps is also charged with providing technical and financial assistance to a variety of other federal agencies, state, and local public health departments.

At the request of this Committee, the General Accounting Office (GAO) conducted a study of the role of the Corps in the Indian Health Service system. Corps officers have been assigned to Indian health agencies since 1926 and the Corps continues to provide many of the physicians, registered nurses, dentists, pharmacists, engineers, and sanitarians in Indian health facilities.

As of August 1999, the Public Health Service employed 5,936 Corps officers of which 2,204 or about 37 percent, are assigned to the Indian Health Service.

S. 558, as introduced, closely resembles previous versions of legislation introduced in the last several Congresses, which resulted from discussions with tribal leaders and representatives of the DHHS.

Like its legislative predecessors in previous sessions of the Congress, S. 558 seeks to honor the government-to-government relationship between the United States and Indian tribes, to provide the necessary leadership within the Administration on Indian health issues, and to bring focus and national attention to the health care status of American Indians and Alaska Natives. The bill is intended to enhance the Federal capacity to respond to the ongoing health crisis in Indian country and the continuing frustrations of Indian patients that their needs and concerns are not adequately addressed under the current administrative policy and budgetary processes.

B. INDIAN HEALTH CARE AND STATUS OF THE IHS

The IHS employs approximately 15,000 employees or about one-quarter of all DHHS personnel. The IHS is a comprehensive health care delivery system operating nationwide through a variety of health care facilities. The IHS provides health care services directly and through tribally contracted and operated health care programs operated pursuant to the Indian Self Determination and Education Assistance Act, 25 U.S.C. 450 et seq.

Health services are also purchased from more than two thousand private providers. As of 2002, the IHS system consisted of 594 direct health care delivery facilities funded through the IHS: 146 of these were directly operated by the IHS and 448 were operated by tribes.

These facilities include, among others, 49 hospitals, 231 health care centers, 309 health stations, five school centers, and 34 urban Indian programs. Each year the IHS provides health care services to 559 Indian tribes in 35 states and in 2002 provided services to 1.6 million American Indians and Alaska Natives. In 1998, IHS and tribal hospitals registered some 68,000 admissions and IHS and tribal direct health clinics provided 7 million outpatient visits.

Previous efforts to address Indian health care needs and concerns have not greatly affected the steady decline in purchasing power of the IHS budget. The disparity between Indian and non-

Indian communities in Federal health care expenditures continues to grow. IHS Health Expenditures for Fiscal Year 1998 reflect a \$1,507 per capita expenditure for Indians, compared with a \$3,383 per capita outlay for non-Indians.

The Committee strongly believes that the institutionalization of a senior policy official responsible for Indian health within the DHHS is necessary to bring parity to Indian health care needs.

S. 558 is intended to strengthen the Executive Order issued on April 29, 1994, 59 F.R. 22951, which recognizes the government-to-government relationship between the United States and the tribes and the November 6, 2000, Executive Order No. 13175 directing executive agencies to consult with Indian tribes prior to any Federal action that would affect the tribes.

C. THE ROLE OF THE ASSISTANT SECRETARY FOR INDIAN HEALTH

On April 9, 2003, the Committee held a hearing to receive testimony to discuss S. 558, among other legislation. At that hearing, the National Indian Health Board, a national Indian health policy advocacy organization, indicated its strong support for the elevation of the Director of IHS to Assistant Secretary for Indian Health. Additionally, the Committee has received a significant volume of correspondence, uniformly supporting the elevation of the Director of IHS to Assistant Secretary for Indian Health.

The Administration has indicated its concerns with the elevation of the IHS Director. Testifying before the Committee, the DHHS witness noted that significant policymaking role given to the IHS Director by the DHHS Secretary, and the revitalization of the Intra-departmental Council for Native American Affairs, on which the IHS Director serves as Vice-Chair.

The Committee is appreciative of the strong support for, and emphasis placed on Native health issues by the current Secretary. However, the Committee remains concerned that future Secretaries may not place a similarly high priority on Native health issues and, for that reason, elevation of the Director to Assistant Secretary is important.

The Committee also recognizes the role of the Assistant Secretary for Health (Surgeon General) in addressing the health needs of all citizens of this country, including the American Indian and Native Alaska populations. S. 558 does not alter the important role the Assistant Secretary for Health (Surgeon General) serves, particularly as principal adviser to the Secretary of DHHS for public health matters affecting the general population.

It is the Committee's hope that a close collaboration between the Assistant Secretary for Health and the Assistant Secretary for Indian Health can serve as a model of interagency cooperation and partnership and raise the health status of American Indians and Alaska Natives.

S. 558 elevates the position of the IHS Director, but more importantly, recognizes the unique government-to-government relationship between Federally recognized Indian tribes and the United States. The Assistant Secretary for Indian Health will provide the necessary leadership and consultation to the Secretary, the Assistant Secretary for Health, and others, on the important health issues facing Indian people. S. 558 serves to support the Federal policy of tribal self-determination and ensures that Indian people

are heard and their concerns are brought to the table when important policy and budget decisions are made on their behalf.

The establishment of an Assistant Secretary for Indian Health will ensure that there is a senior official in current and future administrations who is knowledgeable about the United States' legal and moral obligations to Indian people, the mission of the IHS, and who has the status to advocate within the DHHS and the Office of Management and Budget for the funding resources and policies that are necessary to effectively and efficiently address the health care needs and concerns of the Indian people.

S. 558 places this important and special leadership role with the Assistant Secretary for Indian Health.

LEGISLATIVE HISTORY

S. 558 was introduced on March 6, 2003, by Senator McCain for himself, and for Senators Campbell, Domenici, Johnson, Bingaman and Murray. The bill was referred to the Committee on Indian Affairs. Senator Inouye was added as a cosponsor on March 10, 2003, and Senator Conrad was added on April 1, 2003.

The bill was the subject of a hearing held by the Senate Indian Affairs Committee on April 9, 2003, during which the Committee received testimony from the DHHS, the NIH, and tribal leaders.

SECTION-BY-SECTION ANALYSIS

Section 1. Office of Assistant Secretary for Indian Health

Subsection (a) provides definitions for the terms "Assistant Secretary", "Department", "Office", and "Secretary".

Subsection (b) provides that the Office of Assistant Secretary for Indian Health is established within the Department and will be headed by the Assistant Secretary, who is appointed by the President and confirmed by the United States Senate. This subsection further provides for the current incumbent Director of the IHS to serve as the Assistant Secretary, at the pleasure of the President, after enactment. The duties of the Assistant Secretary are to, consistent with the unique government-to-government relationship between Indian tribes and the United States, facilitate advocacy for the development of Indian health policy, and promote consultation on matters related to Indian health.

Subsection (c) provides that the Assistant Secretary for Indian Health shall report directly to the Secretary on all policy and budget related matters affecting Indian health, collaborate with the Assistant Secretary for Health on Indian health matters, advise other Assistant Secretaries and others within DHHS concerning matters of Indian health, perform the functions of the Director of the Indian Health Service, and other functions as designed by the Secretary of Health and Human Services.

Subsection (d) provides technical changes to conform with the Act. The elevation of the Director of Indian Health Service to Assistant Secretary would increase the number of assistant secretaries to seven. This subsection also abolishes the position of the Director of Indian Health Service.

Subsection (e) amends section 601 of the Indian Health Care Improvement Act, 25 U.S.C. 1661, by establishing the Indian Health

Service within the Public Health Service and further outlines and clarifies the duties of the Assistant Secretary for Indian Health.

Subsection (f) further amends the Indian Health Care Improvement Act by deleting all provisions referring to “the Director” or “Director of Indian Health Service” and inserting in lieu thereof “the Assistant Secretary for Indian Health.” This subsection also provides for conforming amendments to other statutes to conform with this Act.

Subsection (g) provides that any references to the Director of Indian Health Service in any other Federal laws, Executive order, rule, regulation, or delegation of authority, or any document will be deemed to refer to the Assistant Secretary for Indian Health.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On May 14, 2003, the Committee on Indian Affairs, in an open business session, considered S. 558. The bill, without amendment, was ordered favorably reported with a recommendation that the bill do pass.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 558 as calculated by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 22, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 558, a bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Eric Rollins.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 558—A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes

CBO estimates that enacting this bill would have no significant effect on the federal budget. S. 558 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

S. 558 would establish the position of Assistant Secretary for Indian Health in lieu of the current position of Director of the Indian

Health Service. The duties and responsibilities of the office would not be changed significantly. The rate of pay would increase from level V to level IV of the Executive Schedule, an increase of \$8,600. This change would not affect the salary of the current Director of the Indian Health Service, because his pay is governed by the pay structure of the Public Health Service Commissioned Corps.

The CBO staff contact for this estimate is Eric Rollins. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill to evaluate the regulatory paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 558 will have minimal regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

There have been no executive communications received regarding this legislation.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that enactment of S. 558 will result in the following changes in the following statutes as noted below, with existing language which is to be deleted in brackets and the new language which is to be added in italic:

UNITED STATES CODE

TITLE 5.—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

SEC. 5315. POSITIONS AT LEVEL IV.

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title: * * *

Assistant Secretaries of Health and Human Services [(6)] (7). * * *

* * * * *

SEC. 5316. POSITIONS AT LEVEL V.

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under 11 of title 2, as adjusted by section 5318 of this title: * * *

[Director, Indian Health Service, Department of Health and Human Services.] * * *

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UNITED STATES CODE
TITLE 29.—LABOR

* * * * *

SEC. 5315. INTERAGENCY COMMITTEE.

(a) —

(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, including programs relating to assistive technology research and research that incorporates the principles of universal design, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the “Committee”), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, *the Assistant Secretary for Indian Health*, and the Director of the National Science Foundation. * * *

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UNITED STATES CODE
TITLE 33.—NAVIGATION AND
NAVIGABLE WATERS

* * * * *

SEC. 1377. INDIAN TRIBES. * * *

* * * * *

(B) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT.—The Administrator in cooperation with the [Director of the Indian Health Service] *Assistant Secretary for Indian Health*, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2)

methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized. * * *

* * * * *

(e) TREATMENT AS STATES.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, 404, and 406 of this Act to the degree necessary to carry out the objectives of this section, but only if— * * *

(3) the Indian tribe is reasonably expected to be capable, in the Administrator’s judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the [Director of the Indian Health Service] Assistant Secretary for Indian Health. The Administrator, in cooperation with the [Director of the Indian Health Service] Assistant Secretary for Indian Health, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this Act. * * *

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UNITED STATES CODE

TITLE 42.—PUBLIC HEALTH AND WELFARE

* * * * *

SEC. 247b-14. ORAL HEALTH PROMOTION AND DISEASE PREVENTION.

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(b) COMMUNITY WATER FLUORIDATION.

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in collaboration with the [Director of the Indian Health Service] As-

Assistant Secretary for Indian Health, shall establish a demonstration project that is designed to assist rural water systems in successfully implementing the water fluoridation guidelines of the Centers for Disease Control and Prevention that are entitled "Engineering and Administrative Recommendations for Water Fluoridation, 1995" (referred to in this subsection as the "EARWF").

(2) REQUIREMENTS.

(A) COLLABORATION.—In collaborating under paragraph (1), [the Directors] *the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health* referred to in such paragraph shall ensure that technical assistance and training are provided to tribal programs located in each of the 12 areas of the Indian Health Service. The [Director of the Indian Health Service] *Assistant Secretary for Indian Health* shall provide coordination and administrative support to tribes under this section. * * *

* * * * *

SEC. 285a-9. GRANTS FOR EDUCATION, PREVENTION, AND EARLY DETECTION OF RADIOGENIC CANCERS AND DISEASES. * * *

* * * * *

(b) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration in consultation with the Director of the National Institutes of Health and the [Director of the Indian Health Service] *Assistant Secretary for Indian Health*, may make competitive grants to any entity for the purpose of carrying out programs to— * * *

* * * * *

SEC. 300j-12. STATE REVOLVING LOAN FUNDS. * * *

* * * * *

(i) INDIAN TRIBES. * * *

* * * * *

(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the [Director of the Indian Health Service] *Assistant Secretary for Indian Health* and Indian Tribes. * * *

* * * * *

(4) NEEDS ASSESSMENT.—The Administrator, in consultation with the [Director of the Indian Health Service] *Assistant Secretary for Indian Health* and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to subsection (h), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health. * * *

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SEC. 2991b-2. ESTABLISHMENT OF ADMINISTRATION FOR NATIVE AMERICANS. * * *

* * * * *

(d) INTRA-DEPARTMENTAL COUNCIL ON NATIVE AMERICAN AFFAIRS.

(1) There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that involve the Department. The [Director of the Indian Health Service] *Assistant Secretary for Indian Health* shall serve as vice chairperson of the Council. * * *

* * * * *

INDIAN HEALTH CARE IMPROVEMENT ACT

PUBLIC LAW 94-437

AN ACT To implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

[SEC. 601. ESTABLISHMENT OF INDIAN HEALTH SERVICE AS AN AGENCY OF PUBLIC HEALTH SERVICE.

[(a) ESTABLISHMENT.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be on and after November 23, 1988, provided by Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.]

SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—*In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service.*

(2) ADMINISTRATION.—*The Indian Health Service shall be administered by the Assistant Secretary for Indian Health.*

(3) DUTIES.—*In carrying out paragraph (2), the Assistant Secretary for Indian Health shall—*

(A) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

(B) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(C) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(D) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility;

(E) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health; and

*(F) perform such other function as the Secretary may designate. * * **

* * * * *

(c) The Secretary shall carry out through the **【Director of the Indian Health Service】 Assistant Secretary for Indian Health—**

*(1) all functions which were, on the day before November 23, 1988, carried out by or under the direction of the individual serving as **【Director of the Indian Health Service】 Assistant Secretary for Indian Health.** * * **

* * * * *

(d) AUTHORITY OF SECRETARY.—

*(1) The Secretary, acting through the **【Director of the Indian Health Service】 Assistant Secretary for Indian Health,** shall have the authority—* * **

* * * * *

SEC. 816. INDIAN HEALTH SERVICE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH FACILITIES AND SERVICES SHARING.
* * *

* * * * *

(c) CROSS UTILIZATION OF SERVICES.—

*(1) Not later than December 23, 1988, the **【Director of the Indian Health Service】 Assistant Secretary for Indian Health** and the Secretary of Veterans Affairs shall implement an agreement under which— * * **

* * * * *

CHILDREN’S HEALTH ACT OF 2000
PUBLIC LAW 106–310

AN ACT To amend the Public Health Service Act with respect to children’s health
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

SEC. 3307. ESTABLISHMENT OF COMMISSION. * * *

* * * * *

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission established under subsection (a) shall consist of—

(A) the Secretary;

(B) 15 members who are experts in the health care field and issues that the Commission is established to examine; and

(C) the [Director of the Indian Health Service] *Assistant Secretary for Indian Health* and the Commissioner of Indian Affairs, who shall be nonvoting members. * * *

* * * * *

INDIAN LANDS OPEN DUMP CLEANUP ACT OF 1994

PUBLIC LAW 103–399

AN ACT To clean up open dumps on Indian lands, and for other purposes
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

[(6)] (1) ALASKA NATIVE ENTITY.—The term “Alaska Native entity” includes native corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.) and any Alaska Native village or municipal entity which owns Alaska Native land.

[(2) DIRECTOR.—The term “Director” means the Director of the Indian Health Service.]

[(4)] (2) ALASKA NATIVE LAND.—The term “Alaska Native land” means (A) land conveyed or to be conveyed pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.), including any land reconveyed under section 14(c)(3) of that Act (43 U.S.C. 1613(c)(3)), and (B) land conveyed pursuant to the Act of November 2, 1966 (16 U.S.C. 1151 et seq.; commonly known as the “Fur Seal Act of 1966”).

(3) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary for Indian Health.

[(1)] (4) CLOSURE OR CLOSE.—The term “closure or close” means the termination of operations at open dumps on Indian land or Alaska Native land and bringing such dumps into compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards and regulations.

[(3)] (5) INDIAN LAND.—The term “Indian land” means—

(A) land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(B) dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(C) Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

[(5)] (6) INDIAN TRIBAL GOVERNMENT.—The term “Indian tribal government” means the governing body of any Indian tribe, band, nation, pueblo, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. * * *

* * * * *

SEC. 4. INVENTORY OF OPEN DUMPS.

(a) STUDY AND INVENTORY.—Not later than 12 months after the date of enactment of this Act, the [Director] *Assistant Secretary* shall conduct a study and inventory of open dumps on Indian lands and Alaska Native lands. The inventory shall list the geographic location of all open dumps, an evaluation of the contents of each dump, and an assessment of the relative severity of the threat to public health and the environment posed by each dump. Such assessment shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The [Director] *Assistant Secretary* shall obtain the concurrence of the Administrator in the determination of relative severity made by any such assessment.

(b) ANNUAL REPORTS.—Upon completion of the study and inventory under subsection (a), the [Director] *Assistant Secretary* shall report to the Congress, and update such report annually—* * *

(c) 10-YEAR PLAN.—The [Director] *Assistant Secretary* shall develop and begin implementation of a 10-year plan to address solid waste disposal needs on Indian lands and Alaska Native lands. This 10-year plan shall identify—* * *

* * * * *

[SEC. 5. AUTHORITY OF THE DIRECTOR OF THE INDIAN HEALTH SERVICE.] SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) RESERVATION INVENTORY.—(1) Upon request by an Indian tribal government or Alaska Native entity, the [Director] *Assistant Secretary* shall—* * *

(B) determine the relative severity of the threat to public health and the environment posed by each dump based on

information available to the Director and the Indian tribal government or Alaska Native entity unless the **[Director]** *Assistant Secretary*, in consultation with the Indian tribal government or Alaska Native entity, determines that additional actions such as soil testing or water monitoring would be appropriate in the circumstances; * * *

(2) The inventory and evaluation authorized under paragraph (1)(A) shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The **[Director]** *Assistant Secretary* shall obtain the concurrence of the Administrator in the determination of relative severity made under paragraph (1)(B).

(b) ASSISTANCE.—Upon completion of the activities required to be performed pursuant to subsection (a), the **[Director]** *Assistant Secretary* shall, subject to subsection (c), provide financial and technical assistance to the Indian tribal government or Alaska Native entity to carry out the activities necessary to—

(1) close such dumps; and

(2) provide for postclosure maintenance of such dumps.

(c) CONDITIONS.—All assistance provided pursuant to subsection (b) shall be made available on a site-specific basis in accordance with priorities developed by the **[Director]** *Assistant Secretary*. Priorities shall take into account the relative severity of the threat to public health and the environment posed by each open dump and the availability of funds necessary for closure and postclosure maintenance.

SEC. 6. CONTRACT AUTHORITY.

(a) AUTHORITY OF **[DIRECTOR]** *ASSISTANT SECRETARY*.—To the maximum extent feasible, the **[Director]** *Assistant Secretary* shall carry out duties under this Act through contracts, compacts, or memoranda of agreement with Indian tribal governments or Alaska Native entities pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), or section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632).

(b) COOPERATIVE AGREEMENTS.—The **[Director]** *Assistant Secretary* is authorized, for purposes of carrying out the duties of the **[Director]** *Assistant Secretary* under this Act, to contract with or enter into such cooperative agreements with such other Federal agencies as is considered necessary to provide cost-sharing for closure and postclosure activities, to obtain necessary technical and financial assistance and expertise, and for such other purposes as the **[Director]** *Assistant Secretary* considers necessary.

SEC. 7. TRIBAL DEMONSTRATIONS PROJECT.

(a) IN GENERAL.—The **[Director]** *Assistant Secretary* may establish and carry out a program providing for demonstration projects involving open dumps on Indian land or Alaska Native land. It shall be the purpose of such projects to determine if there are unique cost factors involved in the cleanup and maintenance of open dumps on such land, and the extent to which advanced closure planning is necessary. Under the program, the **[Director]** *Assistant Secretary* is authorized to select no less than three Indian tribal governments or Alaska Native entities to a participate in such demonstration projects.

(b) CRITERIA.—Criteria established by the [Director] Assistant Secretary for the selection and participation of an Indian tribal government or Alaska Native entity in the demonstration project shall provide that in order to be eligible to participate, an Indian tribal government or Alaska Native entity must— * * *

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SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

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(b) COORDINATION.—The activities required to be performed by the [Director] Assistant Secretary under this Act shall be coordinated with activities related to solid waste and sanitation facilities funded pursuant to other authorizations.

SEC. 9. DISCLAIMERS.

(a) AUTHORITY OF [DIRECTOR] ASSISTANT SECRETARY.—Nothing in this Act shall be construed to alter, diminish, repeal, or supersede any authority conferred on the [Director] Assistant Secretary pursuant to section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632), and section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988

PUBLIC LAW 100-297

AN ACT To improve elementary and secondary education, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SEC. 5504. ADMINISTRATIVE PROVISIONS. * * *

* * * * *

(d) FEDERAL AGENCY COOPERATION AND ASSISTANCE.—* * *

(2) The Commissioner of the Administration for Native Americans of the Department of Health and Human Services and the [Director of the Indian Health Service] Assistant Secretary for Indian Health of the Department of Health and Human Services are authorized to detail personnel to the Task Force, upon request, to enable the Task Force to carry out its functions under this part. * * *

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**MICHIGAN INDIAN LAND CLAIMS
SETTLEMENT ACT**

PUBLIC LAW 105-143

AN ACT To provide for the division, use, and distribution of judgment funds of the
Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18-E,
58, 364, and 18-R before the Indian Claims Commission

*Be it enacted by the Senate and House of Representatives of the
United States of American in Congress assembled,*

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SEC. 203. LIMITATION. * * *

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(b) CONSIDERATION.—In any case in which the Secretary, acting
through the [Director of the Indian Health Service] *Assistant Sec-
retary for Indian Health*, is required to select from more than 1 ap-
plication for a contract or compact described in subsection (a), in
awarding the contract or compact, the Secretary shall take into
consideration— * * *

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