To promote patient-centered care and accountability at the Indian Health Service, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BARRASSO (for himself and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To promote patient-centered care and accountability at the Indian Health Service, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Indian Health Service Accountability Act of 2016” or the “IHS Accountability Act of 2016”.

SEC. 2. FINDINGS.

Congress finds that—

(1) in 2010, the Committee on Indian Affairs of the Senate held an oversight hearing entitled “In
Critical Condition: The Urgent Need to Reform Indian Health Service’s Aberdeen Area”, during which members of the Committee listened to testimony detailing an investigation led by a former Chairman of the Committee, Byron Dorgan, including his report on the Indian Health Service (referred to in this section as the “Dorgan Report”);

(2) the Dorgan Report found evidence showing the lack of quality of care at Indian Health Service facilities in the Great Plains Area (previously referred to as the “Aberdeen Area”), which is comprised of South Dakota, North Dakota, Nebraska, and Iowa;

(3) in 2015—

(A) staff of the Committee on Indian Affairs of the Senate investigated claims that conditions in the Great Plains Area had not improved; and

(B) the Committee confirmed that many issues identified in the Dorgan Report had not been resolved and found that some problems had become worse and new problems had developed;
(4) a culture of cronyism in the Indian Health Service has further eroded confidence in the health care system of the Indian Health Service;

(5) persistent failures by the Indian Health Service to provide tribal citizens access to safe, quality health care have led to multiple innocent patient deaths and the suffering of patients, families, and whole communities;

(6) those failures have been extensively documented by Congress, the Indian Health Service, and the Centers for Medicare & Medicaid Services, which confirmed that systemic problems and substandard conditions in Indian Health Service facilities pose an immediate risk to patient safety;

(7) the United States has treaty, trust, and statutory obligations to provide health care to American Indians and Alaska Natives, which the Indian Health Service is mandated to uphold; and

(8) prioritizing patients and restoring faith in the health care system of the Indian Health Service requires greater transparency, accountability, and strong leadership.
SEC. 3. REMOVAL OF INDIAN HEALTH SERVICE EMPLOYEES BASED ON PERFORMANCE OR MISCONDUCT.

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

"SEC. 605. REMOVAL OF SERVICE EMPLOYEES BASED ON PERFORMANCE OR MISCONDUCT.

"(a) DEFINITIONS.—In this section and sections 606 through 610:

"(1) EMPLOYEE.—The term ‘employee’ has the meaning given the term in section 2105 of title 5, United States Code.

"(2) MANAGER.—

"(A) IN GENERAL.—The term ‘manager’ has the meaning given the term ‘management official’ in section 7103(a) of title 5, United States Code.

"(B) INCLUSIONS.—The term ‘manager’ includes, as employed at any facility of the Service—

"(i) a chief executive officer;

"(ii) a chief medical officer; and

"(iii) a department director.

"(3) MISCONDUCT.—The term ‘misconduct’ means neglect of duty, malfeasance, or failure to ac-
cept a directed reassignment or to accompany a position in a transfer of function.

“(4) Personnel Action.—The term ‘personnel action’ means a removal, transfer, or reduction in grade under subsection (b)(2).

“(5) Secretary.—The term ‘Secretary’ means the Secretary of Health and Human Services, acting through the Director of the Service.

“(6) Senior Executive.—The term ‘senior executive’ means a career appointee (as that term is defined in section 3132(a) of title 5, United States Code) that occupies a Senior Executive Service position.

“(7) Senior Executive Service Position.—The term ‘Senior Executive Service position’ has the meaning given the term in section 3132(a) of title 5, United States Code.

“(8) Supervisor.—The term ‘supervisor’ has the meaning given the term in section 7103(a) of title 5, United States Code.

“(b) Removal Based on Performance or Misconduct.—

“(1) In general.—Subject to paragraph (4), the Secretary may remove an employee of the Service from the position the employee occupies if the
Secretary determines the performance or misconduct
of the employee warrants removal.

“(2) ACTION.—If the Secretary removes an em-
ployee under paragraph (1), the Secretary may—

“(A) remove the employee from the civil
service (as defined in section 2101 of title 5,
United States Code);

“(B) in the case of an individual described
in paragraph (3), transfer the individual from
the Senior Executive Service position to a Gen-
eral Schedule position at any grade of the Gen-
eral Schedule for which the individual is quali-
fied and that the Secretary determines is appro-
priate; or

“(C) in the case of a manager or super-
visor, reduce the grade of the manager or su-
pervisor to any other grade for which the indi-
vidual is qualified and that the Secretary deter-
mines is appropriate.

“(3) INDIVIDUAL DESCRIBED.—An individual
referred to in paragraph (2)(B) is a senior executive
that—

“(A) previously occupied a permanent posi-
tion within the competitive service (as that term
is defined in section 2102 of title 5, United States Code); or

“(B) previously occupied a permanent position within the excepted service (as that term is defined in section 2103 of title 5, United States Code).

“(4) DUE PROCESS.—Before an employee may be subject to a personnel action, the Secretary shall provide to the employee—

“(A) not less than 10 days before the personnel action, written notice of the proposed personnel action; and

“(B) an opportunity and reasonable time to answer orally or in writing.

“(c) PAY OF CERTAIN INDIVIDUALS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, including the requirements of section 3594 of title 5, United States Code, any individual transferred to a General Schedule position under subsection (b)(2)(B) or subject to a reduction in grade under subsection (b)(2)(C) shall, beginning on the date of the transfer, receive the annual rate of pay applicable to the position.

“(2) REQUIREMENTS.—
“(A) IN GENERAL.—An individual transferred to a General Schedule position under subsection (b)(2)(B) or subject to a reduction in grade under subsection (b)(2)(C) —

“(i) may not be placed on administrative leave or any other category of paid leave during the period during which an appeal (if any) under subsection (e)(2)(A) is ongoing; and

“(ii) may only receive pay if the individual—

“(I) reports for duty; and

“(II) performs a primary duty or an alternative primary duty, as each term is described in section 551.104 of title 5, Code of Federal Regulations (or a successor regulation).

“(B) FAILURE TO REPORT.—If an individual transferred to a General Schedule position under subsection (b)(2)(B) or subject to a reduction in grade under subsection (b)(2)(C) does not report for duty, pursuant to subsection (f)(5), the individual shall not receive any increase in rate of pay or other benefit.
“(d) NOTICE TO CONGRESS.—Not later than 30 days after the date on which the Secretary takes a personnel action, the Secretary shall submit, in writing, a notice of the personnel action and the reason for the personnel action to—

“(1) the Committee on Indian Affairs of the Senate;

“(2) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(3) the Committee on Natural Resources of the House of Representatives;

“(4) the Committee on Energy and Commerce of the House of Representatives; and

“(5) the Inspector General of the Department.

“(e) PROCEDURE.—

“(1) INAPPLICABILITY.—The procedures under chapters 43 and 75 of title 5, United States Code, shall not apply to a personnel action.

“(2) APPEAL.—

“(A) IN GENERAL.—Subject to subparagraph (B) and subsection (f), an employee subject to a personnel action may appeal the personnel action to the Merit Systems Protection Board under section 7701 of title 5, United States Code.
“(B) LIMITATION.—An appeal under subparagraph (A) may only be made if the appeal is made not later than 7 days after the date of the personnel action.

“(f) EXPEDITED REVIEW BY ADMINISTRATIVE LAW JUDGE.—

“(1) IN GENERAL.—

“(A) REFERRAL.—On receipt of an appeal under subsection (e)(2)(A), the Merit Systems Protection Board shall refer the appeal to an administrative law judge pursuant to section 7701(b)(1) of title 5, United States Code.

“(B) EXPEDIATION.—The administrative law judge to whom an appeal is referred under subparagraph (A) shall—

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

“(ii) issue a decision in each case not later than 21 days after the date of the appeal.

“(2) FINALITY.—Notwithstanding any other provision of law, including section 7703 of title 5, United States Code, the decision of an administrative law judge under paragraph (1) shall be final
and shall not be subject to any further administrative appeal.

“(3) FAILURE TO ISSUE DECISION.—

“(A) IN GENERAL.—In any case in which an administrative law judge fails to issue a decision in accordance with the 21-day requirement described in paragraph (1)(B)(ii), the personnel action shall be treated as final.

“(B) TRANSPARENCY.—In any case in which a personnel action is treated as final under subparagraph (A), the Merit Systems Protection Board shall, not later than 14 days after the date on which the personnel action becomes final, submit a letter explaining the reasons why a decision was not issued in accordance with the 21-day requirement described in paragraph (1)(B)(ii) to—

“(i) the Committee on Indian Affairs of the Senate;

“(ii) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(iii) the Committee on Natural Resources of the House of Representatives; and
“(iv) the Committee on Energy and Commerce of the House of Represen-
tatives.

“(4) RESTRICTION.—The Merit Systems Pro-
tection Board or an administrative law judge may not stay any personnel action.

“(5) CESSATION OF PAY INCREASES AND BENEFITS.—During the period beginning on the date on which an employee appeals a removal from the civil service under subsection (e)(2)(A) and ending on the date on which the removal becomes final, the em-
ployee may not receive any—

“(A) increase in rate of pay; or

“(B) award, bonus, incentive, allowance, differential, student loan repayment, special payment, or other benefit.

“(6) ASSISTANCE.—To the maximum extent practicable, the Secretary shall provide such infor-
mation and assistance as may be necessary to ensure an appeal under this subsection is expedited to—

“(A) the Merit Systems Protection Board; and

“(B) any administrative law judge to whom an appeal under this section is referred.
“(g) Employment Record Transparency.—The Secretary shall ensure that the employment records for any employee subject to a personnel action, regardless of whether that personnel action is final, include—

“(1) a notation that the employee was subject to a personnel action; and

“(2) a description of the disposition or status of the personnel action or any appeal of the personnel action under this section.

“(h) Relation to Title 5, United States Code.—

“(1) Additional Authority.—The personnel action authorities provided to the Secretary under this section are in addition to the authorities provided under chapters 43 and 75 of title 5, United States Code.

“(2) Removal of Senior Executives.—Section 3592(b)(1) of title 5, United States Code, shall not apply to a personnel action.”.

Sec. 4. Improvements in Hiring Practices.

(a) In General.—Title VI of the Indian Health Care Improvement Act (25 U.S.C. 1661 et seq.) (as amended by section 3) is amended by adding at the end the following:
**SEC. 606. IMPROVEMENTS IN HIRING PRACTICES.**

“(a) Direct Hire Authority.—The Secretary may appoint, without regard to subchapter I of chapter 33 of title 5, United States Code (other than sections 3303 and 3328 of that title), a candidate directly to a position within the Service for which the candidate meets Office of Personnel Management qualification standards.

“(b) Preference.—To enhance recruitment and retention of employees of the Service, the Secretary may waive the requirements of the Indian preference laws (as defined in section 2(e) of Public Law 96–135 (25 U.S.C. 472a(e))) with respect to hiring a candidate to a position in a Service unit on written request or resolution of an Indian tribe located within the applicable Service unit.

“(c) Tribal Consultation.—

“(1) In general.—Subject to paragraph (2), before appointing, hiring, promoting, or transferring a candidate to a Senior Executive Service position or the position of a manager at an Area office or Service unit, the Secretary shall meaningfully and expeditiously consult with Indian tribes located within the applicable Service area or Service unit.

“(2) Exception.—

“(A) In general.—If the Secretary determines that emergency circumstances exist that may negatively impact patient health or safety
if the position is not filled, the Secretary may
appoint a candidate to a Senior Executive Serv-
vice or manager position at an Area office or
Service unit for a temporary time period only,
not to exceed 180 days.

“(B) NOTICE.—The Secretary shall notify,
in writing, each Indian tribe located within the
applicable Service area or Service unit of the
appointment not fewer than 7 days prior to ex-
ercising the authority described in subpara-
graph (A).

“(d) NOTICE OF REMOVAL BASED ON PERFORMANCE
OR MISCONDUCT.—Before appointing, hiring, promoting,
or transferring a candidate to a Senior Executive Service
position or the position of a manager or supervisor at an
Area office or Service unit, the Secretary shall provide to
Indian tribes located within the applicable Service area the
content of an inclusion in an employment record under
section 605(g).”.

(b) GAO REPORT ON IHS STAFFING NEEDS.—

(1) IN GENERAL.—Not later than 1 year after
the date of enactment of this Act, the Comptroller
General of the United States shall submit to Con-
gress a report assessing staffing needs in the Indian
Health Service.
(2) CONTENTS.—The report described in paragraph (1) shall include—

(A) a description of the number and type of full-time equivalent employees needed at each facility of the Indian Health Service and amounts required for those employees;

(B) an assessment of the use of independent contractors instead of full-time equivalent employees; and

(C) recommendations to address staffing needs in the Indian Health Service.

(c) STAFFING PLAN.—Not later than 1 year after the date on which the Comptroller General of the United States submits the report under subsection (b), the Secretary shall submit to Congress a written plan to address staffing needs in the Indian Health Service based on the recommendations described in paragraph (2)(C) of that subsection.

SEC. 5. INCENTIVES FOR RECRUITMENT AND RETENTION.

(a) IN GENERAL.—Title VI of the Indian Health Care Improvement Act (25 U.S.C. 1661 et seq.) (as amended by section 4(a)) is amended by adding at the end the following:
“SEC. 607. INCENTIVES FOR RECRUITMENT AND RETENTION.

“(a) REWARDING QUALITY PERFORMANCE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may grant or rescind bonuses or other benefits to employees of the Service—

“(A) to promote patient safety;

“(B) to promote quality of performance of the employees; or

“(C) to improve recruitment and retention of employees in the Service.

“(2) QUALITY INCENTIVES.—The Secretary may grant a bonus under paragraph (1) to a manager or supervisor in the Service who identifies 1 or more ways—

“(A) to improve patient care; or

“(B) to reduce waste, fraud, or abuse.

“(b) PAY SYSTEM.—The Secretary shall establish a pay system for physicians, dentists, nurses, and other health care professionals employed by the Service that provides pay that, to the maximum extent practicable, is comparable to the pay provided to physicians, dentists, nurses, and other health care professionals under chapter 74 of title 38, United States Code.
“(c) RELOCATION COSTS.—The Secretary may provide to an employee of the Service the costs the employee incurs in the relocation of the employee if, as determined by the Secretary—

“(1) the employee relocates to a Service area experiencing a high level of need for employees; and

“(2) the employee will accept a position that is likely to be difficult to fill in the absence of an incentive.

“(d) PERFORMANCE-BASED RETENTION BONUSES.—To improve retention of employees in the Service, the Secretary may provide to an employee of the Service a bonus based on the performance of the employee.

“(e) ADMINISTRATION.—

“(1) OPM GUIDELINES.—The Secretary shall carry out subsections (a) through (d) in accordance with guidelines of the Office of Personnel Management for recruitment and retention, including section 575.109 of title 5, Code of Federal Regulations (as in effect on the date of enactment of this Act).

“(2) SERVICE AGREEMENTS.—The Secretary may only provide a bonus, pay increase, relocation cost, or other benefit under subsections (a) through (d) to an employee who agrees to serve for not less than 1 year in the Service.
“(f) HOUSING VOUCHERS.—

“(1) IN GENERAL.—Subject to paragraph (2), not later than 1 year after the date of enactment of this section, the Secretary may establish a program to provide tenant-based rental assistance to an employee of the Service who—

“(A) agrees to serve for not less than 1 year at a Service facility designated by the Administrator of the Health Resources and Services Administration as a health professional shortage area; and

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

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

(b) GAO REPORT ON IHS PROFESSIONAL HOUSING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report identifying professional housing needs for employees of the Indian Health Service.
(2) CONTENTS.—The report described in paragraph (1) shall include—

(A) an evaluation of any existing assessments and projections for the professional housing needs of employees of the Indian Health Service;

(B) an accurate and independent assessment of the professional housing needs of employees of the Indian Health Service for each Service area (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603));

(C) a discussion and conclusion on whether the assessments and projections described in subparagraph (A) accurately reflect the professional housing needs of employees of the Indian Health Service described in subparagraph (B); and

(D) recommendations for establishing appropriate means for the Indian Health Service to accurately assess professional housing needs in the future.

(e) HOUSING PLAN.—Not later than 1 year after the date on which the Comptroller General of the United States submits the report under subsection (b), the Sec-
retary shall submit to Congress a written plan to address
the professional housing needs of the Indian Health Serv-
vice based on the recommendations described in paragraph
(2)(D) of that subsection.

SEC. 6. EMPLOYEE PROTECTIONS AGAINST RETALIATION.

(a) In General.—Title VI of the Indian Health
Care Improvement Act (25 U.S.C. 1661 et seq.) (as
amended by section 5(a)) is amended by adding at the
end the following:

“SEC. 608. EMPLOYEE PROTECTIONS AGAINST RETALIA-
TION.

“(a) Employee Accountability.—

“(1) Mandatory Reporting.—An employee of
the Service who witnesses retaliation against a whis-
tleblower, a violation of patient safety requirements,
or other similar conduct shall make a report of the
conduct to an official in the Department who—

“(A) is designated by the Secretary of
Health and Human Services to receive those re-
ports; and

“(B) is not an employee of the Service.

“(2) Oversight.—The Secretary of Health
and Human Services shall provide a copy of each re-
port described in paragraph (1) and any other rel-
evant information to the Inspector General of the
Department of Health and Human Services by not later than 3 days after receipt of the report by the designated official described in that paragraph.

“(3) REMOVAL.—The Secretary may remove for misconduct from the civil service (as defined in section 2101 of title 5, United States Code), in accordance with section 605, an employee of the Service who retaliates against a whistleblower.

“(b) AGENCY ACCOUNTABILITY.—

“(1) IN GENERAL.—The Secretary shall formally review each claim of—

“(A) discrimination against an employee of the Service; or

“(B) retaliation against a whistleblower in the Service.

“(2) ANNUAL REPORTS TO CONGRESS.—The Secretary shall submit to Congress each year a report describing the status or disposition of each claim described in paragraph (1).”.

(b) GAO REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report examining protections for whistle-
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blowers in the Indian Health Service (referred to in this subsection as the “Service”).

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

(A) a follow-up investigation on the investigation of the Committee on Indian Affairs of the Senate entitled “In Critical Condition: The Urgent Need to Reform the Indian Health Service’s Aberdeen Area”;

(B) a discussion and conclusion on whether the Service has taken proper steps to ensure that whistleblowers are not retaliated against;

(C) recommendations for changes in Service policy relating to whistleblowers; and

(D) a discussion and conclusion on whether the official email accounts of employees of the Service are being monitored.

SEC. 7. RIGHT OF EMPLOYEES TO PETITION CONGRESS.

(a) ACTION FOR VIOLATION OF RIGHT OF FEDERAL EMPLOYEES.—Section 7211 of title 5, United States Code, is amended—

(1) by striking “The right of” and inserting “(a) IN GENERAL.—The right of”; and

(2) by adding at the end the following:
“(b) ADVERSE ACTION.—An employee who interferes with or denies a right protected under this section shall, in accordance with subchapter II of chapter 75, or other applicable procedures, be subject to an adverse action described in paragraphs (1) through (5) of section 7512.”.

(b) ELECTRONIC NOTIFICATION OF RIGHT OF INDIAN HEALTH SERVICE EMPLOYEES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Indian Health Service (referred to in this subsection as the “Secretary”) shall, in accordance with paragraphs (2) through (6), provide to each employee of the Indian Health Service, and electronically post, a memorandum providing notice of the right of employees under section 7211 of title 5, United States Code (relating to employees’ right to petition Congress).

(2) CONTENTS.—The memorandum described in paragraph (1) shall include the following statement: “It is a violation of section 7211 of title 5, United States Code, for any Federal agency or employee to require a Federal employee to seek approval, guidance, or any other form of input prior to contacting Congress with information, even if that information is in relation to the job responsibilities
of the employee. A Federal employee found to have
interfered with or denied the right of another Fed-
eral employee may be subject to an adverse action
described in paragraphs (1) through (5) of section
7512 of title 5, United States Code, including sus-
pension without pay for a period of more than 14
days.”.

(3) SUBMISSION.—Not later than 30 days after
the date of enactment of this Act, the Secretary
shall submit the memorandum described in para-
graph (1) to the Inspector General of the Depart-
ment of Health and Human Services (referred to in
this section as the “Inspector General”) for ap-
proval.

(4) APPROVAL OR DISAPPROVAL.—Not later
than 30 days after the submission of the memo-
randum under paragraph (3), or a revised memo-
randum under paragraph (6), the Inspector General
shall approve or disapprove the memorandum or the
revised memorandum.

(5) NOTICE.—Not later than 30 days after ap-
proval of the memorandum or the revised memo-
randum under paragraph (4), the Secretary shall—
(A) provide to each employee of the Indian Health Service an electronic copy of the memorandum; and
(B) post the memorandum in a clear and conspicuous place on the website of the Indian Health Service for a period of not fewer than 120 days.

(6) Revised Memorandum.—If the Inspector General disapproves the memorandum or a revised memorandum under paragraph (4), not later than 15 days after the disapproval, the Secretary shall submit a revised memorandum to the Inspector General for approval under paragraph (4).

SEC. 8. LIABILITY PROTECTIONS FOR HEALTH PROFESSIONAL VOLUNTEERS IN THE INDIAN HEALTH SERVICE.

Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding at the end the following:

“(q) Certain Indian Health Service Volunteers Deemed Public Health Service Employees.—

“(1) In general.—

“(A) For purposes of this section, a health professional volunteer at a Service unit or Serv-
ice area (as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) (referred to in this subsection as a ‘covered entity’) shall, in providing a health professional service to an individual, be deemed to be an employee of the Public Health Service for a calendar year that begins during a fiscal year for which a transfer was made under paragraph (4)(C).

“(B) Subparagraph (A) is subject to this subsection.

“(2) CONDITIONS.—In providing a health service to an individual, a health care practitioner shall for purposes of this subsection be considered to be a health professional volunteer at a covered entity if all of the following conditions are met:

“(A) The service is provided to the individual at the facilities of a covered entity, or through offsite programs or events carried out by the covered entity.

“(B) The covered entity is sponsoring the health care practitioner pursuant to paragraph (3)(B).

“(C) The health care practitioner does not receive any compensation for the service from
the individual or from any third-party payer (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program), except that the health care practitioner may receive repayment from the covered entity for reasonable expenses incurred by the health care practitioner in the provision of the service to the individual.

“(D) Before the service is provided, the health care practitioner or the covered entity posts a clear and conspicuous notice at the site where the service is provided of the extent to which the legal liability of the health care practitioner is limited under this subsection.

“(E) At the time the service is provided, the health care practitioner is licensed or certified in accordance with applicable law regarding the provision of the service.

“(3) APPLICABILITY.—Subsection (g) (other than paragraphs (3) and (5) of that subsection) and subsections (h), (i), and (l) apply to a health care practitioner at a covered entity for purposes of this subsection to the same extent and in the same manner as such subsections apply to an officer, governing board member, employee, or contractor of an
entity described in subsection (g)(4), subject to paragraph (4) and subject to the following:

“(A) Each reference to an entity described in subsection (g)(4) shall be considered to be a reference to a covered entity.

“(B) Paragraph (1)(A) applies in lieu of the first sentence of subsection (g)(1)(A).

“(C)(i) With respect to a covered entity, a health care practitioner is not a health professional volunteer at the covered entity unless the covered entity sponsors the health care practitioner.

“(ii) For purposes of this subsection, the covered entity shall be considered to be sponsoring the health care practitioner if—

“(I) with respect to the health care practitioner, the covered entity submits to the Secretary an application meeting the requirements of subsection (g)(1)(D); and

“(II) the Secretary, pursuant to subsection (g)(1)(E), determines that the health care practitioner is deemed to be an employee of the Public Health Service.

“(D) In the case of a health care practitioner who is determined by the Secretary pur-
suant to subsection (g)(1)(E) to be a health professional volunteer at the covered entity, this subsection applies to the health care practitioner (with respect to services performed on behalf of the covered entity sponsoring the health care practitioner pursuant to subpara-
graph (C)) for any cause of action arising from an act or omission of the health care practitioner occurring on or after the date on which the Secretary makes that determination.

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

“(4) FUNDING.—

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

“(B) ANNUAL ESTIMATES.—

“(i) IN GENERAL.—Not later May 1 of each fiscal year, the Attorney General, in consultation with the Secretary, shall submit to Congress a report providing an
estimate of the amount of claims (together with related fees and expenses of witnesses) that, by reason of the acts or omissions of health professional volunteers, will be paid under this section during the calendar year that begins in the following fiscal year.

“(ii) APPLICABILITY.—Subsection (k)(1)(B) applies to the estimate under clause (i) relating to health professional volunteers to the same extent and in the same manner as that subsection applies to the estimate under that subsection relating to officers, governing board members, employees, and contractors of entities described in subsection (g)(4).

“(C) TRANSFERS.—Not later than December 31 of each fiscal year, the Secretary shall transfer from the fund under subsection (k)(2) to the appropriate accounts in the Treasury an amount equal to the estimate made under subparagraph (B) for the calendar year beginning in that fiscal year, subject to the extent of amounts in the fund.

“(5) EFFECTIVE DATES.—
“(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection takes effect on October 1, 2017.

“(B) REGULATIONS, APPLICATIONS, AND REPORTS.—Effective on the date of the enactment of this subsection—

“(i) the Secretary may—

“(I) issue regulations for carrying out this subsection; and

“(II) accept and consider applications submitted under paragraph (3)(C); and

“(ii) the Attorney General may submit to Congress a report under paragraph (4)(B).”.

SEC. 9. FISCAL ACCOUNTABILITY.

Title VI of the Indian Health Care Improvement Act (25 U.S.C. 1661 et seq.) (as amended by section 6(a)) is amended by adding at the end the following:

“SEC. 609. FISCAL ACCOUNTABILITY.

“(a) MANAGEMENT OF FUNDS.—

“(1) IN GENERAL.—If the Secretary fails to submit the staffing plan in accordance with section 4(c) of the Indian Health Service Accountability Act of 2016 or the housing plan in accordance with sec-
tion 5(c) of that Act, the Secretary may not receive, obligate, transfer, or expend any amounts for a salary increase or bonus of an individual described in paragraph (2) before the applicable plan is submitted in accordance with section 4(e) or section 5(c) of that Act, as applicable.

“(2) INDIVIDUAL DESCRIBED.—An individual referred to in paragraph (1) is—

“(A) an individual who—

“(i) is employed in a position described in sections 5312 through 5316 of title 5, United States Code (relating to the Executive Schedule);

“(ii) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5, United States Code; or

“(iii) is employed in a position in the executive branch of the Government of a confidential or policy-determining nature under schedule C of subpart C of part 213 of title 5, Code of Federal Regulations; or
“(B) a senior executive (as defined in section 3132(a) of title 5, United States Code).

“(b) Prioritization of Patient Care.—

“(1) In general.—The Secretary shall use amounts that are not obligated or expended during the fiscal year for which the amounts are made available, and that remain available, only to support patient care, specifically for—

“(A) costs of essential medical equipment;

“(B) the Purchased/Referred Care program; or

“(C) any other purpose approved by the Secretary after consultation with appropriate Indian tribes.

“(2) Restrictions.—The Secretary shall not use amounts described in paragraph (1) for—

“(A) interior decorating or remodeling of a facility of the Service; or

“(B) an increase in rate of pay for an employee of an Area office.

“(c) Spending Reports.—The Secretary shall provide a report each quarter of a fiscal year describing the expenditures, outlays, transfers, reprogramming, obligations, and other spending of each level of the Service, in-
including the headquarters, each Area office, each Service unit, and each facility, to—

“(1) Indian tribes;

“(2) in the Senate—

“(A) the Committee on Indian Affairs;

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

“(C) the Committee on Appropriations;

and

“(D) the Committee on the Budget; and

“(3) in the House of Representatives—

“(A) the Committee on Natural Resources;

“(B) the Committee on Energy and Commerce;

“(C) the Committee on Appropriations;

and

“(D) the Committee on the Budget.

“(d) STATUS REPORTS.—

“(1) IN GENERAL.—The Secretary shall provide to each entity described in paragraphs (1) through (3) of subsection (c) a report each quarter of a fiscal year, except as provided in paragraph (2), describing the safety, billing, certification, credential, and compliance statuses of each facility managed, operated, or otherwise supported by the Service.
“(2) UPDATES.—On a change of a status described in paragraph (1), the Secretary shall immediately provide to each entity described in paragraphs (1) through (3) of subsection (e) an update describing the change.”.

SEC. 10. TRANSPARENCY AND ACCOUNTABILITY FOR PATIENT SAFETY.

(a) TRANSPARENCY AND ACCOUNTABILITY.—Title VI of the Indian Health Care Improvement Act (25 U.S.C. 1661 et seq.) (as amended by section 9) is amended by adding at the end the following:

“SEC. 610. TRANSPARENCY AND ACCOUNTABILITY FOR PATIENT SAFETY.

“(a) TRANSPARENCY.—The Secretary shall ensure that all surveys, reports, and other materials of the Centers for Medicare & Medicaid Services relating to patient safety and compliance are posted on the websites of each hospital and clinic wholly or partially owned, operated, managed, or funded by the Service.

“(b) ACCOUNTABILITY.—

“(1) IN GENERAL.—The Inspector General of the Department (referred to in this section as the ‘Inspector General’) shall investigate each patient death in which the Service is alleged to be involved by an act or omission.
“(2) NOTICE.—The Secretary shall notify the Inspector General of each patient death that occurs—

“(A) in a facility of the Service; or

“(B) under the care of the Service.

“(3) REPORTS.—Not less frequently than once each year, the Inspector General shall provide to Indian tribes in the relevant Service area and Congress a report describing the investigations described in paragraph (1).

“(4) DISCLOSURE.—On completion of each investigation described in paragraph (1), the Inspector General shall provide to the family of the deceased patient information relating to—

“(A) the findings of the investigation; and

“(B) any action taken by the Inspector General, including any criminal referral.

“(c) QUALITY MONITORING.—The Secretary, in consultation with the Inspector General, shall establish within the Service a program to monitor the quality of patient care in the Service.

“(d) REPORTING SYSTEMS.—The Inspector General shall—
“(1) conduct an audit of reporting systems of
the Service as of the date of enactment of this sec-
tion; and
“(2) provide to the Service recommendations
and technical assistance to implement improved re-
porting systems, procedures, standards, and proto-
cols.”.

(b) COMPLIANCE SURVEYS.—Section 1880 of the So-
cial Security Act (42 U.S.C. 1395qq) is amended by add-
ing at the end the following:
“(g)(1) Not less frequently than once every 2 years,
the Administrator of the Centers for Medicare & Medicaid
Services shall conduct surveys to assess the compliance of
each hospital or skilled nursing facility of the Indian
Health Service with—
“(A) section 1867; and
“(B) conditions of participation in the program
under this title.
“(2) Each survey completed under this subsection
shall be made available on the public Internet website of
the Centers for Medicare & Medicaid Services.”.