

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To modify a provision relating to the health care facility priority system.

**IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.**

**S. 1790**

To amend the Indian Health Care Improvement Act to revise and extend that Act, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by \_\_\_\_\_

Viz:

1 On page 56, between lines 1 and 2, insert the fol-  
2 lowing:

3 **SEC. 141. HEALTH CARE FACILITY PRIORITY SYSTEM.**

4 Section 301 of the Indian Health Care Improvement  
5 Act (25 U.S.C. 1631) is amended—

6 (1) by redesignating subsection (d) as sub-  
7 section (g); and

8 (2) by striking subsection (c) and inserting the  
9 following:

10 “(c) HEALTH CARE FACILITY PRIORITY SYSTEM.—

1           “(1) IN GENERAL.—

2                   “(A) PRIORITY SYSTEM.—The Secretary,  
3 acting through the Service, shall maintain a  
4 health care facility priority system, which—

5                           “(i) shall be developed in consultation  
6 with Indian tribes and tribal organizations;

7                           “(ii) shall give Indian tribes’ needs  
8 the highest priority;

9                           “(iii)(I) may include the lists required  
10 in paragraph (2)(B)(ii); and

11                           “(II) shall include the methodology re-  
12 quired in paragraph (2)(B)(v); and

13                           “(III) may include such health care  
14 facilities, and such renovation or expansion  
15 needs of any health care facility, as the  
16 Service may identify; and

17                           “(iv) shall provide an opportunity for  
18 the nomination of planning, design, and  
19 construction projects by the Service, In-  
20 dian tribes, and tribal organizations for  
21 consideration under the priority system at  
22 least once every 3 years, or more fre-  
23 quently as the Secretary determines to be  
24 appropriate.

1           “(B) NEEDS OF FACILITIES UNDER  
2 ISDEAA AGREEMENTS.—The Secretary shall en-  
3 sure that the planning, design, construction,  
4 renovation, and expansion needs of Service and  
5 non-Service facilities operated under contracts  
6 or compacts in accordance with the Indian Self-  
7 Determination and Education Assistance Act  
8 (25 U.S.C. 450 et seq.) are fully and equitably  
9 integrated into the health care facility priority  
10 system.

11           “(C) CRITERIA FOR EVALUATING  
12 NEEDS.—For purposes of this subsection, the  
13 Secretary, in evaluating the needs of facilities  
14 operated under a contract or compact under the  
15 Indian Self-Determination and Education As-  
16 sistance Act (25 U.S.C. 450 et seq.), shall use  
17 the criteria used by the Secretary in evaluating  
18 the needs of facilities operated directly by the  
19 Service.

20           “(D) PRIORITY OF CERTAIN PROJECTS  
21 PROTECTED.—The priority of any project estab-  
22 lished under the construction priority system in  
23 effect on the date of enactment of the Indian  
24 Health Care Improvement Reauthorization and  
25 Extension Act of 2009 shall not be affected by

1 any change in the construction priority system  
2 taking place after that date if the project—

3 “(i) was identified in the fiscal year  
4 2008 Service budget justification as—

5 “(I) 1 of the 10 top-priority inpa-  
6 tient projects;

7 “(II) 1 of the 10 top-priority out-  
8 patient projects;

9 “(III) 1 of the 10 top-priority  
10 staff quarters developments; or

11 “(IV) 1 of the 10 top-priority  
12 Youth Regional Treatment Centers;

13 “(ii) had completed both Phase I and  
14 Phase II of the construction priority sys-  
15 tem in effect on the date of enactment of  
16 such Act; or

17 “(iii) is not included in clause (i) or  
18 (ii) and is selected, as determined by the  
19 Secretary—

20 “(I) on the initiative of the Sec-  
21 retary; or

22 “(II) pursuant to a request of an  
23 Indian tribe or tribal organization.

24 “(2) REPORT; CONTENTS.—

25 “(A) INITIAL COMPREHENSIVE REPORT.—

1                   “(i) DEFINITIONS.—In this subpara-  
2 graph:

3                   “(I) FACILITIES APPROPRIATION  
4 ADVISORY BOARD.—The term ‘Facili-  
5 ties Appropriation Advisory Board’  
6 means the advisory board, comprised  
7 of 12 members representing Indian  
8 tribes and 2 members representing  
9 the Service, established at the discre-  
10 tion of the Director—

11                   “(aa) to provide advice and  
12 recommendations for policies and  
13 procedures of the programs fund-  
14 ed pursuant to facilities appro-  
15 priations; and

16                   “(bb) to address other facili-  
17 ties issues.

18                   “(II) FACILITIES NEEDS ASSESS-  
19 MENT WORKGROUP.—The term ‘Fa-  
20 cilities Needs Assessment Workgroup’  
21 means the workgroup established at  
22 the discretion of the Director—

23                   “(aa) to review the health  
24 care facilities construction pri-  
25 ority system; and

1                   “(bb) to make recommenda-  
2                   tions to the Facilities Appropria-  
3                   tion Advisory Board for revising  
4                   the priority system.

5                   “(ii) INITIAL REPORT.—

6                   “(I) IN GENERAL.—Not later  
7                   than 1 year after the date of enact-  
8                   ment of the Indian Health Care Im-  
9                   provement Reauthorization and Ex-  
10                  tension Act of 2009, the Secretary  
11                  shall submit to the Committee on In-  
12                  dian Affairs of the Senate and the  
13                  Committee on Natural Resources of  
14                  the House of Representatives a report  
15                  that describes the comprehensive, na-  
16                  tional, ranked list of all health care  
17                  facilities needs for the Service, Indian  
18                  tribes, and tribal organizations (in-  
19                  cluding inpatient health care facilities,  
20                  outpatient health care facilities, spe-  
21                  cialized health care facilities (such as  
22                  for long-term care and alcohol and  
23                  drug abuse treatment), wellness cen-  
24                  ters, and staff quarters, and the ren-  
25                  ovation and expansion needs, if any,

1 of such facilities) developed by the  
2 Service, Indian tribes, and tribal orga-  
3 nizations for the Facilities Needs As-  
4 sessment Workgroup and the Facili-  
5 ties Appropriation Advisory Board.

6 “(II) INCLUSIONS.—The initial  
7 report shall include—

8 “(aa) the methodology and  
9 criteria used by the Service in de-  
10 termining the needs and estab-  
11 lishing the ranking of the facili-  
12 ties needs; and

13 “(bb) such other information  
14 as the Secretary determines to be  
15 appropriate.

16 “(iii) UPDATES OF REPORT.—Begin-  
17 ning in calendar year 2011, the Secretary  
18 shall—

19 “(I) update the report under  
20 clause (ii) not less frequently that  
21 once every 5 years; and

22 “(II) include the updated report  
23 in the appropriate annual report  
24 under subparagraph (B) for submis-  
25 sion to Congress under section 801.

1           “(B) ANNUAL REPORTS.—The Secretary  
2 shall submit to the President, for inclusion in  
3 the report required to be transmitted to Con-  
4 gress under section 801, a report which sets  
5 forth the following:

6           “(i) A description of the health care  
7 facility priority system of the Service es-  
8 tablished under paragraph (1).

9           “(ii) Health care facilities lists, which  
10 may include—

11           “(I) the 10 top-priority inpatient  
12 health care facilities;

13           “(II) the 10 top-priority out-  
14 patient health care facilities;

15           “(III) the 10 top-priority special-  
16 ized health care facilities (such as  
17 long-term care and alcohol and drug  
18 abuse treatment); and

19           “(IV) the 10 top-priority staff  
20 quarters developments associated with  
21 health care facilities.

22           “(iii) The justification for such order  
23 of priority.

24           “(iv) The projected cost of such  
25 projects.

1                   “(v) The methodology adopted by the  
2                   Service in establishing priorities under its  
3                   health care facility priority system.

4                   “(3) REQUIREMENTS FOR PREPARATION OF RE-  
5                   PORTS.—In preparing the report required under  
6                   paragraph (2), the Secretary shall—

7                   “(A) consult with and obtain information  
8                   on all health care facilities needs from Indian  
9                   tribes and tribal organizations; and

10                   “(B) review the total unmet needs of all  
11                   Indian tribes and tribal organizations for health  
12                   care facilities (including staff quarters), includ-  
13                   ing needs for renovation and expansion of exist-  
14                   ing facilities.

15                   “(d) REVIEW OF METHODOLOGY USED FOR HEALTH  
16                   FACILITIES CONSTRUCTION PRIORITY SYSTEM.—

17                   “(1) IN GENERAL.—Not later than 1 year after  
18                   the establishment of the priority system under sub-  
19                   section (c)(1)(A), the Comptroller General of the  
20                   United States shall prepare and finalize a report re-  
21                   viewing the methodologies applied, and the processes  
22                   followed, by the Service in making each assessment  
23                   of needs for the list under subsection (c)(2)(A)(ii)  
24                   and developing the priority system under subsection  
25                   (c)(1), including a review of—

1           “(A) the recommendations of the Facilities  
2           Appropriation Advisory Board and the Facili-  
3           ties Needs Assessment Workgroup (as those  
4           terms are defined in subsection (c)(2)(A)(i));  
5           and

6           “(B) the relevant criteria used in ranking  
7           or prioritizing facilities other than hospitals or  
8           clinics.

9           “(2) SUBMISSION TO CONGRESS.—The Comp-  
10          troller General of the United States shall submit the  
11          report under paragraph (1) to—

12           “(A) the Committees on Indian Affairs and  
13           Appropriations of the Senate;

14           “(B) the Committees on Natural Re-  
15           sources and Appropriations of the House of  
16           Representatives; and

17           “(C) the Secretary.

18          “(e) FUNDING CONDITION.—All funds appropriated  
19          under the Act of November 2, 1921 (25 U.S.C. 13) (com-  
20          monly known as the ‘Snyder Act’), for the planning, de-  
21          sign, construction, or renovation of health facilities for the  
22          benefit of 1 or more Indian Tribes shall be subject to the  
23          provisions of section 102 of the Indian Self-Determination  
24          and Education Assistance Act (25 U.S.C. 450f) or sec-

1 tions 504 and 505 of that Act (25 U.S.C. 458aaa-3,  
2 458aaa-4).

3       “(f) DEVELOPMENT OF INNOVATIVE APPROACHES.—  
4 The Secretary shall consult and cooperate with Indian  
5 tribes and tribal organizations, and confer with urban In-  
6 dian organizations, in developing innovative approaches to  
7 address all or part of the total unmet need for construc-  
8 tion of health facilities, that may include—

9               “(1) the establishment of an area distribution  
10 fund in which a portion of health facility construc-  
11 tion funding could be devoted to all Service areas;

12               “(2) approaches provided for in other provisions  
13 of this title; and

14               “(3) other approaches, as the Secretary deter-  
15 mines to be appropriate.”.