

Monday, September 17, 2018
Washington D.C. Update

For: The Confederated Tribes of Siletz Indians
From: Matt Hill

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Columbia River housing authorization

Last week Senate and House conferees released a final version of the Water Resources Development Act (WRDA). This bill generally authorizes funding for the US Army Corps of Engineers. Section 1133 of the bill contains legislative language that:

- Directs the Corps to assess the extent of Indians displaced by construction of the Bonneville Dam and John Day Dam ... and provide “assistance”
- Directs the Corps to complete and carry out a village development plan for any Indian village flooded by construction of The Dalles Dam, and may acquire land from willing landowners in order for the village development

This legislative language does not specify where the housing will be and how it will be assigned to Tribes or individuals. Reps DeFazio and Walden were conferees and helpful in securing the language, as was Sen. Merkley, who sponsored the original provision to authorize these actions and studies.

The House passed the Conference Report to the WRDA on Thursday and the bill has moved to the Senate for consideration.

House passes four Indian bills

Last week the U.S. House of Representatives passed several Indian-related bills:

- H.R.3764 – Little Shell Tribe of Chippewa Indians Restoration Act of 2018: The bill will provide federal recognition to the Little Shell Tribe of Chippewa Indians of Montana. The bill is sponsored by Montana Rep. Greg Gianforte, who took over sponsorship from former Montana Rep. Ryan Zinke. This is not the first time the Tribe has pushed for recognition. Dating back to the 1930s and 1940s, the Tribe petitioned the federal government for a formal reservation and to be allowed to organize under the Indian Reorganization Act of 1934. The recognition legislation has faltered in recent years. Last Congress, Sen. Jon Tester (D-MT) was able to pass his version of the bill through the

Indian Affairs Committee but the full Senate never took action.

- H.R.6411 – FinCEN Improvement Act of 2018: This bill amends the duties of the Financial Crimes Enforcement Network (FinCEN). FinCEN must work with Tribal law enforcement agencies, protect against terrorism regardless of origin and coordinate internationally on matters involving emerging technology and virtual currency.
- H.R.2606 – Stigler Act Amendments of 2018: This bill amends the Act of August 4, 1947 (commonly known as the Stigler Act) to revise provisions regarding the restricted fee status of land in Oklahoma allotted to members of the Five Civilized Tribes.
- H.R.5317 – This bill repeals a prohibition on creating or continuing a distillery in Indian country for manufacturing ardent spirits (distilled liquors).

Tribal Social Security bill to become law

Last week, Congress sent the President H.R. 6124, the Tribal Social Security Fairness Act of 2018. The bill:

- Empowers Tribes by directing the Social Security Administration, at the request of any Indian Tribe, to enter into an agreement with the Tribe to extend Old Age, Survivors and Disability Insurance benefits to Tribal Council members
- Enables Tribal Council members to receive Social Security credit for taxes paid prior to the establishment of an agreement

The bill was introduced on June 15, 2018, by Rep. Reichert. It was passed by the House of Representatives on July 24, 2018. It now awaits President Trump’s signature into law.

DOI preparing to initiate ITARA demo program

The Indian Trust Asset Reform Act, PL. 114-178, was signed into law on June 22, 2016. Title II of the law authorizes the Secretary of the Interior to establish and carry out an Indian trust management demonstration project for Tribal forestry and surface leasing programs. Earlier this year, the Department of the Interior held Tribal consultations prior to establishing the demonstration project.

We now believe that the department is very close to initiating the demo project, at which point Tribes could request participation and submit proposed regulations for DOI’s approval.

Farm Bill debate re: Tribal forestry provision

House and Senate conferees continue to negotiate a final version of the Farm Bill. The current Farm Bill expires at the end of September. Based on lobbying by the Intertribal Timber Council, there has been progress on one provision that had drawn opposition from Democrats and environmental groups.

The House-passed bill authorized the Forest Service and BLM to enter into “638” contracts with Indian Tribes for Tribal Forest Protection Act projects. This

would allow Tribes to receive funds to carry out administrative functions in preparing and implementing TFPA projects on federal lands intended to reduce the threat of fires/bugs/disease to Tribal forest lands. Environmental groups claimed this would sidestep environmental laws. Congressional Democrats reacted by eliminating DOI participation in the program, severely limiting the number of projects and requiring Tribes to demonstrate “historic success” in managing forests.

The ITC and individual Tribes have been working with congressional offices and committees to clarify the provision. A compromise proposal would:

- Limit the 638/TFPA provision to a 5-year authority (beginning after the first project is initiated)
- Clarify the application of applicable federal environmental laws
- Apply to both USDA/Forest Service and the BLM

In addition, Congress appears ready to include Tribes in “Good Neighbor Authority” – which currently allows states to petition federal agencies to do fuels reduction work on federal lands.

BIE releases new “Strategic Direction”

The Bureau of Indian Education (BIE) recently announced the release of the BIE Strategic Direction (“Direction”) for 2018-2023. The Direction is intended to improve the ability of the BIE to increase its services to Native students by organizing management activities, setting priorities, and ensuring efficient and effective utilization of staff and resources. The Direction emphasizes the importance of fostering collaborative relationships between the BIE, Tribes, school boards, employees and other stakeholders.

The Direction outlines six goals with strategies that will support and impact their successful implementation. These goals address the following:

- All students will enter kindergarten academically, socially and emotionally prepared to succeed in school.
- All students will develop the knowledge, skills and behaviors necessary for physical, mental and emotional well-being in a positive, safe and culturally relevant learning environment.
- All students will develop the knowledge, skills and behaviors necessary to progress successfully through school and be prepared for post-secondary education and/or career opportunities.
- All students will graduate high school ready to succeed in post-secondary study and careers, and to think globally.
- All students will develop the knowledge, skills and behaviors needed to lead their sovereign nations to a thriving future through self-determination.
- All students will benefit from an education system that is effective, efficient, transparent and accountable.

Native funding increases in HHS appropriations bill

Last week, Congressional leaders released the final FY 2019 spending

bill that will fund the Department of Health and Human Services (HHS) and Education (H.R. 6157). While the Indian Health Service (IHS) is actually funded in a separate piece of legislation, this bill does contain funding for several important programs to Indian Health:

Good Health and Wellness in Indian Country (GHWIC) +\$5 million:

Currently 12 Tribes, 11 Tribal organizations and 12 Tribal Epidemiology Centers (TECs) receive funding through GHWIC, which is administered by the Centers for Disease Control and Prevention.

Substance Abuse and Mental Health Services Administration (SAMHSA):

- **Resources to Combat the Opioid Crisis:** As in FY 2018, funding for State Opioid Response Grants includes a \$50 million set-aside for Tribes and Tribal organizations. The total amount for this program is \$1.5 billion. In addition, it includes a \$10 million Tribal set-aside for the Medication Assisted Treatment for Prescription Drug and Opioid Addiction, which is an increase of \$5 million from the FY 2018 level.
- **Tribal Behavioral Health Grants (TBHG) +\$10 million (33% increase):** Under this program, \$20 million goes to mental health and \$20 million is dedicated to substance abuse. TBHG are designed to address the high incidence of substance use and suicide among American Indian/Alaska Native (AI/AN) populations and it is a vital component of ensuring that behavioral health challenges are addressed across Indian Country.
- **National Traumatic Stress Initiative:** SAMHSA’s National Child Traumatic Stress Initiative (NCTSI) improves treatment and services for children, adolescents and families who have experienced traumatic events. In the agreement, \$10 million is added to this program, of which a \$1 million set-aside is dedicated “to expand access to Tribal populations.”

Other programs: In the agreement, the Garrett Lee Smith Suicide Prevention Tribal Set Aside is \$2.9 million, which is equal to the FY 2018 level. The Tribal set-aside for the Zero Suicide Prevention Initiative is \$2.2 million, which is an increase of \$200,000 from FY 2018.

Tribal Sovereignty Language: In the FY 2019 House version of this legislation, the accompanying committee report included language that affirms that Indian Tribes are sovereign nations with political status. This is in response to a determination by the Centers for Medicare and Medicaid Services that the agency cannot grant AI/ANs an exemption to state proposed work and community engagement requirements under Medicaid because to do so would be a favorable preference based on race, in violation of the Civil Rights Act.

The agreement released yesterday affirms this language and says that unless otherwise indicated, the language in the House report shall still be complied with by the agencies.