Legislative Activity of the 117th Congress and Administrative Actions Affecting Tribes

In this issue, dated July 26, 2021, through August 25, 2021, the following Federal Legislative and Administrative Actions were taken on issues affecting Tribes.

Federal Congressional Hearings – 117th Congress

i. August 4, 2021 – Business Meeting to Consider S.989 & S.1402. [Link to hearing.]

Business meeting with no witness testimony.

- S.989, Native American Language Resource Center Act of 2021. [Link to bill.]
- S.1402, Durbin Feeling Native American Languages Act of 2021. [Link to bill.]
Federal Bills Introduced/Considered – 117th Congress


Federal Administrative and Regulatory Actions


ii. July 29, 2021 – Department of Labor; Employment and Training Administration; Request for Nominations; Request for Nominations for Membership on the Native American Employment and Training Council.

iii. July 30, 2021 – Indian Health Service; Notice; Community Health Aide Program: Tribal Assessment & Planning.

iv. July 30, 2021 – Indian Health Service; Notice; Community Health Aide Program: Tribal Planning & Implementation.

v. July 30, 2021 – Indian Health Service; Notice; Epidemiology Program for American Indian/Alaska Native Tribes and Urban Indian Communities.

vi. August 5, 2021 – Department of Interior; Bureau of Indian Affairs; Notice of Tribal and Public Listening Sessions; Bureau of Indian Education Strategic Direction 2018 – 2023.

vii. August 8, 2021 – Department of the Interior; Bureau of Indian Affairs, Office of the Assistant Secretary; Notice of Call for Nominations; Not Invisible Act Joint Commission on Reducing Violent Crime Against Indians.

viii. August 5, 2021 – Department of the Interior; Bureau of Indian Affairs, Office of the Assistant Secretary; Not Invisible Act of 2019.

ix. August 16, 2021 – Department of Interior; Bureau of Indian Affairs; Rule; Indian Land Title and Records.
Federal Bills Introduced/Considered – 117th Congress


- A bill making Tribes eligible to use funds from the sale of timber under a good neighbor agreement to carry out authorized restoration services under the agreement, or other good neighbor agreements.


- A bill that would increase the maximum penalty for violations of the Native American Graves Protection and Repatriation Act. Would also stop the export and facilitate the international repatriation of cultural items illegally trafficked. Would create an export certification system and establish a federal framework to support the voluntary return of cultural items by individuals and organizations for items of tangible cultural heritage.


- This bill would treat distributions from qualified disability trusts, certain Tribal payments, certain payments from Native corporations or settlement trusts, and Alaska permanent fund dividends as earned income.


- A bill modifying the rules in the Internal Revenue Code for Tribal economic bonds. The amendments would increase the national limitation from $2 billion to $4 billion. It would also make interest on any tribal economic development bond exempt from tax and make changes to the definition of a Tribal economic development bond.


- A bill that would allow for covered passenger vessels to dock at a port or place owned by a Tribe. The Tribe may grant permission through Tribal resolution or other formal agreement, and the agreement may grant permissible activities for passengers and crew. Requires that vessel crews and passengers comply with Tribal laws and regulations.


- A bill to establish an integrated national approach to respond to ongoing and expected effects of extreme weather and climate change by protecting, managing, and conserving the fish, wildlife, and plants of the United States. The bill establishes working group that includes the Director of the Bureau of Indian Affairs and at least two Tribal members. The working group shall serve as a forum for interagency consultation on, and the coordination of, the development and implementation of the National Strategy. The working group will ensure that implementation of the plan is consistent with other laws and Federal trust responsibilities concerning Tribal lands.

- This bill directs the Department of Veterans Affairs (VA) to provide mental health and suicide prevention outreach to American Indian and Alaska Native veterans. Specifically, the bill requires that each VA medical center have a full-time minority veteran coordinator. The coordinator must receive training in the delivery of culturally appropriate mental health and suicide prevention services to American Indian and Alaska Native veteran.


- This bill would make supplemental funds available for management of fish and wildlife species of greatest conservation need as identified by Tribes. $97.5 million would be made available beginning in FY 2022 for Tribal Wildlife Conservation and Restoration.


- A bill that would clarify the rights of Tribes and Tribal members under the National Labor Relations Act. This bill adds Tribes and Tribal entities located on Tribal lands to 29 U.S.C 152 as well as language including lands in the State of Oklahoma within the boundaries of a former reservation.


- This bill authorizes the Department of Education to make a grant to or enter a contract with an eligible entity (e.g., an institution of higher education) to establish, operate, and staff a Native American language resource and training center. The center must serve as a resource to improve the capacity to teach and learn Native American languages.


- A bill to amend the Native American Languages Act to require the heads of various Federal departments to carry out surveys and evaluations of all Native American languages in the U.S. every five years. The surveys will gather data such as the number of speakers, status of language programs, and information on unmet needs for resources.


- This bill was previously known as the “INVEST in America Act” but has been renamed as the “Infrastructure Investment and Jobs Act”. The bill’s amendments now include $650 billion appropriated to Indian Country needs over five years. These funds include $15 billion in Indian Country specific funding as well as $146 billion in grants for Tribes and Tribal entities. The funding addresses needs in roads, transportation, water, climate change mitigation, and broadband internet connectivity.

• A bill to assist Tribes in designating a corridor within their boundaries as a Tribal Wildlife Corridor to restore historical habitat and manage land to facilitate connectivity. The bill would also establish the Tribal Wildlife Corridors Grant Program to provide technical assistance to encourage wildlife movement and connectivity with other lands.


• This bill seeks to establish a biochar demonstration project for federally recognized Indian Tribes and Alaska Native corporations to support the development and commercialization of biochar starting in FY 2021 through FY 2030. Biochar is defined as carbonized biomass produced by converting feedstock through reductive thermal processing for non-fuel uses.


• This concurrent resolution establishes the congressional budget for the federal government for FY2022, sets forth budgetary levels for FY 2023 through FY 2031, and provides reconciliation instructions for legislation that increases the deficit. The resolution includes reconciliation instructions that direct several House and Senate committees to report legislation that will increase the deficit over FY2022-FY2031 by no more than an amount specified for each committee. The amount specified for the Senate Committee on Indian Affairs is $20.5 billion.


• This bill directs the U.S. Election Assistance Commission to administer a Native American voting task force grant program. The program would work to increase voter registration and participation, increase access to the ballot, streamline the voting process, provide information in each community’s dominant language, train poll workers, and other important voting activities including:
  
  o Tribal consultation to develop the grant program.
  
  o Amendments to the National Voter Registration Act of 1993 to provide federally funded facilities specifically to assist Tribes.
  
  o A directive for states to designate an officer who will be responsible for compliance with this act.
  
  o Accessible Tribal designated polling sites.
  
  o Ballot drop boxes.
  
  o Early voting locations.
  
  o Designating Tribal IDs as a valid form of ID for voting in States that require it.
Federal Administrative and Regulatory Actions


- The Bureau of Indian Affairs (BIA) is confirming the interim final rule published on May 24, 2021, updating regulations governing Tribal Energy Resource Agreements (TERAs) between the Secretary of the Interior (Secretary) and Indian Tribes. The interim final rule added the statutory requirement that that any application for a Tribal Energy Development Organization (TEDO) be submitted by the Tribe and corrected cross-references.

- This rule is effective July 27, 2021.

- For further Information contact Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273-4680; elizabeth.appel@bia.gov.

ii. July 29, 2021 – Department of Labor; Employment and Training Administration; Request for Nominations; Request for Nominations for Membership on the Native American Employment and Training Council. [Link to Federal Register Notice].

- The Department of Labor (DOL) invites interested parties to submit nominations for individuals to serve on the Native American Employment and Training Council (NAETC). The NAETC was established to consult with the Secretary of Labor on the training needs of Native Americans.

- DOL is seeking nominations from representatives of Tribal governments, American Indian, Alaska Native, and Native Hawaiian organizations that have expertise in the areas of workforce development. Appointments for 17 members of the current NAETC will expire on October 23, 2021.

- Nominations must be submitted electronically by August 30, 2021, and must include:
  - Nominee’s name, organization, address, email, and phone number.
  - Nomination category (e.g., ETA region).
  - A biography and current resume of the nominee.
  - A cover letter that provides the reason(s) for nominating the individual or a self-nomination, and the expertise of the nominee in the areas of workforce development, secondary and post-secondary education, health care, human services, veteran services business and economic development and job sectors growth. In addition, the cover letter must state that the nomination is being made in response to this Federal Register Notice and that the nominee (if nominating someone other than oneself) has agreed to be nominated.

- For further information contact Athena Brown, Division of Indian and Native American Programs, (202) 693-3737 or email at brown.athena@dol.gov.

iii. July 30, 2021 – Indian Health Service; Notice; Community Health Aide Program: Tribal Assessment & Planning. [Link to Federal Register Notice].

- The Indian Health Service (IHS) is accepting applications for grants for the Community Health Aide Program (CHAP) Tribal Assessment and Planning (TAP) program. The national CHAP will provide a network of health aides trained to support licensed health professionals while providing direct health care, health promotion, and disease prevention services. The purpose of the TAP program is to support the assessment and planning of Tribes and Tribal
Organizations in determining the feasibility of implementing CHAP in their respective communities.

- Application deadline date is September 6, 2021, and the applications and application materials are available on grants.gov.
- For further information, contact Paul Gettys, Acting Director, DGM, at paul.gettys@ihs.gov, or by telephone at (301) 443-2114 or (301) 443-5204.

iv. July 30, 2021 – Indian Health Service; Notice; Community Health Aide Program: Tribal Planning & Implementation. Link to Federal Register Notice.

- The Indian Health Service (IHS) is accepting applications for grants for the Community Health Aide Program (CHAP) Tribal Planning and Implementation (TPI) program. The national CHAP will provide a network of health aides trained to support licensed health professionals while providing direct health care, health promotion, and disease prevention services. The purpose of the TPI program is to support the planning and implementation for Tribes and Tribal Organizations positioned to begin operating a CHAP or support a growing CHAP in the contiguous 48 states.
- Application deadline date is September 1, 2021, and the applications and application materials are available on grants.gov.
- For further information, contact Paul Gettys, Acting Director, DGM, at paul.gettys@ihs.gov, or by telephone at (301) 443-2114 or (301) 443-5204.

v. July 30, 2021 – Indian Health Service; Notice; Epidemiology Program for American Indian/Alaska Native Tribes and Urban Indian Communities. Link to Federal Register Notice.

- The Indian Health Service (IHS) is accepting applications for a cooperative agreement for Tribal Epidemiology Centers (TECs) serving American Indian/Alaska Native (AI/AN) Tribes and Urban Indian communities. The purpose of this IHS cooperative agreement is to strengthen public health capacity and to fund Tribes, Tribal organizations, and UIOs, and inter-Tribal consortia in identifying relevant health status indicators and priorities to support Public Health interventions that reduce morbidity and mortality in the population using sound epidemiologic principles.
- Application deadline date is September 1, 2021, and the applications and application materials are available on grants.gov.
- For further information, contact Paul Gettys, Acting Director, DGM, at paul.gettys@ihs.gov, or by telephone at (301) 443-2114 or (301) 443-5204.

vi. August 8, 2021 – Department of Interior; Bureau of Indian Affairs; Notice of Tribal and Public Listening Sessions; Bureau of Indian Education Strategic Direction 2018 – 2023. Link to Federal Register Notice.

- The BIE is currently in its third year of implementing its strategic planning document, BIE Strategic Direction for 2018-2023. BIE developed the Direction with input from Tribal leaders and stakeholders such as school boards, educators, and families of Native students. Given the unforeseen events of the past year and a half, BIE is revisiting the Direction to conduct a mid-cycle check and make any appropriate adjustments to the milestones for years 4 and 5 of the Direction.
- Sessions will be divided by goals and mission areas as follows:
• Comprehensive Strategic Direction Overview, August 24, 2021, 10 a.m.-11 a.m. CST, https://doilearn2.webex.com/doilearn2/onstage/g.php?MTID=e97f55ec4f62e7837bddd0e5824c48cfe.

• High-Quality, Early Childhood Education, August 24, 2021, 2 p.m.-1:30 p.m. CST, https://doilearn2.webex.com/doilearn2/onstage/g.php?MTID=e923a6532db9ab220265e3d7c7dda71c0.


• Postsecondary and Career Readiness, August 25, 2021, 2 p.m.-3:30 p.m. CST, https://doilearn2.webex.com/doilearn2/onstage/g.php?MTID=e4529f0e4b103765d2c388655afdf99f34.

• Self-Determination, August 26, 2021, 9 a.m.-10:30 a.m. CST, https://doilearn2.webex.com/doilearn2/onstage/g.php?MTID=e37e49195a2325aa3629746186cc08222.

• Performance Management, August 26, 2021, 2 p.m.-3:30 p.m. CST, https://doilearn2.webex.com/doilearn2/onstage/g.php?MTID=e8c10ad0d0bab896669a0e7e6f885f770.

• For further information contact Chelsea Wilson, Program Analyst, Performance Office, at (703) 581-3064 or Chelsea.Wilson@bie.edu.

vii. August 8, 2021 – Department of the Interior; Bureau of Indian Affairs, Office of the Assistant Secretary; Notice of Call for Nominations; Not Invisible Act Joint Commission on Reducing Violent Crime Against Indians. Link to Federal Register Notice.

• This notice requests public nominations for the U.S. Department of the Interior (DOI)’s Joint Commission on Reducing Violent Crime Against Indians (Commission) as outlined in Section 4 of the Not Invisible Act of 2019. Please click the notice link for detailed nomination requirements.

• Comments and nominations for non-Federal Commission members must be submitted no later than September 20, 2021.

• Send written comments and nominations to Regina Gilbert, by any of the following methods:
  o The preferred method is via email at consultation@bia.gov.
  o Mail, hand-carry or use an overnight courier service to: Attn. Jason O’Neal, Director, Office of Justice Services U.S. Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, MS-3662-MIB, Washington, DC 20240.

• For further information please email inquiries to Heidi_Todacheene@ios.doi.gov; and please add the following language in the subject line: “Inquiry re NIAC fr [add org/tribe/name here]”.

• The U.S. Department of the Interior (Department), in coordination with the U.S. Department of Justice, is hosting public meetings to obtain stakeholder input related to implementation of the Not Invisible Act of 2019. The Department is holding public meetings to receive input from stakeholders on the formation of the Commission on Reducing Violent Crime Against Indians and what the Commission should consider when developing recommendations that will have lasting impacts on Indian Country and further address the missing and murdered Indigenous peoples crisis.

• The Department will conduct four public meetings by webinar and will accept both oral and written comments. Please register in advance for any session you plan on attending. After registering, you will receive a confirmation email containing information about joining the meeting. The public meeting schedule is as follows:

  o Tuesday, August 31, 2021, 4 p.m.-6 p.m. ET. Please register in advance at: https://www.zoomgov.com/meeting/register/vJItcOivrzouG3KN7DL5sPEiJO2nDEFQo0.

  o Thursday, September 2, 2021, 4 p.m.-6 p.m. ET. Please register in advance at: https://www.zoomgov.com/meeting/register/vJIsdeyqrD8uEueD_SScIvVmlRlfExnwsiY.

  o Wednesday, September 8, 2021, 4 p.m.-6 p.m. ET. Please register in advance at: https://www.zoomgov.com/meeting/register/vJItfu-tqzMtGO5RBqQX5yNVpOXBsdthhc4.

  o Friday, September 10, 2021, 4 p.m.-6 p.m. ET. Please register in advance at: https://www.zoomgov.com/meeting/register/vJIsceuqqD4pGto5i8YHNrNA3zifJQ6Gg.

• Comments from stakeholders must be submitted by Friday, September 17, 2021. Comments may be emailed to consultation@bia.gov or mailed to Heidi Todacheene, Office of the Assistant Secretary—Indian Affairs, U.S. Department of the Interior, 1849 C Street NW, Mail Stop 4660, Washington, DC 20240.

• For further information please contact Heidi Todacheene, Senior Advisor to the Assistant Secretary—Indian Affairs at heidi_todacheene@ios.doi.gov or (202) 208-7163.

ix. August 16, 2021 – Department of Interior; Bureau of Indian Affairs; Rule; Indian Land Title and Records. Link to Federal Register Notice.

• The Land Titles and Records Office (LTRO) maintains title documents for land that the United States holds in trust or restricted status for individual Indians or Tribes (Indian land), roughly like how counties and other localities maintain title documents for fee land within their jurisdictions.

• The new rule modernizes the LTRO regulations to provide a framework for continued operations and future electronic maintenance of most title documents. This approach will more efficiently address title-related actions that support Indian land transactions (such as a title examination to take land into trust) by allowing workloads to be shifted among LTRO offices to promptly address each request and prevent the risk of any backlogs.

• The rule also addresses changes that have evolved over the past 40 years that have removed requirements for Secretarial approval of certain title documents in support of Tribal self-governance and self-determination (e.g., individual leases under approved Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act regulations) by clarifying that
these documents must still be recorded in the LTRO because the documents affect who is authorized to use Indian land.

- This rule is effective September 15, 2021.
- For further information contact Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273-4680; elizabeth.appel@bia.gov.