



American
Indian Policy
Institute

Arizona State
University

POLICY UPDATE

Legislative Activity in the 116th Congress and Administrative Actions Affecting Tribes

In this Issue, dated September 25, 2020, through October 23, 2020, the Following Federal Legislative and Administrative Actions Were Taken on Issues Affecting Tribes—

Federal Congressional Hearings – 116th Congress

- i. **October 1, 2020** – [House Natural Resources Committee Hearing on "Environmental Justice for All Act."](#) [Link to Hearing.](#)

Witness List:

- Dr. Robert Bullard, Professor of Urban Planning and Environmental Policy, Texas Southern University. [Link to testimony.](#)
- Dr. Mildred McLain, Co-founder, and Executive Director, Harambee House/Citizens for Environmental Justice. [Link to testimony.](#)
- Andrea Vidaurre, Co-Founder, People's Collective for Environmental Justice. [Link to testimony.](#)
- Derrick Hollie (Minority Witness), President, Reaching America. [Link to testimony.](#)

- ii. **October 15, 2020** – [House Water, Oceans, and Wildlife Subcommittee Hearing titled "Environmental Justice for Coastal Communities: Examining Inequities in Federal Grantmaking."](#) [Link to Hearing.](#)

Witness List:

- Ernesto L. Diaz Velazquez, Director, Puerto Rico Coastal Zone Management Program, Department of Natural and Environmental Resources, San Juan, PR. [Link to testimony.](#)
- Fawn Sharp, President, National Congress of American Indians, Washington, DC. [Link to testimony.](#)
- Na' Taki Osborne Jelks, Ph.D., M.P.H., Assistant Professor, Environmental and Health Sciences, Spelman College, Atlanta, GA. [Link to testimony.](#)
- Holly Bamford, Ph.D., Chief Conservation Officer, National Fish, and Wildlife Foundation, Washington, DC. [Link to testimony.](#)
- Donna Jackson, National Advisory Council Member, Project 21, Washington, DC. [Link to testimony.](#)

Federal Bills Introduced/Considered by the 116th Congress

- i. **September 30, 2020** – H.R. 7948, Tribal Health Data Improvement Act of 2020 .Received in the Senate and read twice and referred to the Committee on Indian Affairs. Introduced by Rep. Greg Gianforte (R-MT-At Large) on August 7, 2020.
- ii. **October 10, 2020** – S. 227, Savanna's Act. **Became Public Law 116-165**. Introduced by Sen. Lisa Murkowski (R-AK) on January 25, 2019.
- iii. **October 10, 2020** – S. 982, Not Invisible Act of 2019. **Became Public Law 116-166**. Introduced by Sen. Catherine Cortez Masto (D-NV) on April 2, 2019.
- iv. **October 20, 2020** - S. 294, Native American Business Incubators Program Act. **Became Public Law 116-174**. Introduced by Sen. Tom Udall (D-NM) on January 31, 2019.
- v. **October 20, 2020** – S. 3099: Alaska Native Tribal Health Consortium Land Transfer Act of 2020. Placed on Senate Legislative Calendar. Committee Report S.Rept. 116-281. Introduced by Sen. Lisa Murkowski (R-AK) on December 18, 2019.
- vi. **October 20, 2020** - S. 3100: Alaska Native Tribal Health Consortium Land Transfer Act of 2020. Placed on Senate Legislative Calendar. Committee Report S.Rept. 116-282. Introduced by Sen. Lisa Murkowski (R-AK) on December 18, 2019.
- vii. **October 21, 2020** - S.209, PROGRESS for Indian Tribes Act. **Became Public Law No: 116-180**. Introduced by Sen. John Hoeven (R-ND) on January 24, 2019.

Federal Administrative and Regulatory Actions

- i. **October 2, 2020** – Environmental Protection Agency; Notice; Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 128(a); Notice of Grant Funding Guidance for State and Tribal Response Programs for Fiscal Year 2021.
- ii. **October 10, 2020** – Department of the Interior; Bureau of Indian Education; Notice of Tribal consultation; Bureau of Indian Education: National Policy Memorandum on Section 504 of the Rehabilitation Act of 1973 (NPM-EDUC-33).
- iii. **October 14, 2020** – Department of the Interior; Bureau of Indian Education; Proposed rule; Use of Bureau-Operated Schools by Third Parties Under Lease Agreements and Fundraising Activity by Bureau-Operated School Personnel.
- iv. **October 14, 2020** – Department of the Interior; Bureau of Land Management; Notice of call for nominations; FY2020 National Call for Nominations for Resource Advisory Councils.
- v. **October 14, 2020** – U.S. Commission on Civil Rights; Announcement of meetings; Notice of Public Meeting of the Arizona Advisory Committee.
- vi. **October 16, 2020** – Department of Health and Human Services; Indian Health Service; Notice; Community Opioid Intervention Pilot Projects.
- vii. **October 16, 2020** – Department of the Interior; Bureau of Indian Affairs; Final rule; confirmation; Indian Child Protection and Family Violence Prevention; Minimum Standards of Character.
- viii. **October 16, 2020** – Department of Health and Human Services; Indian Health Service; Notice;

Urban Indian Education and Research Program.

- ix. **October 20, 2020** – Department of Commerce; Bureau of the Census; Notice of meeting; 2020 Census Tribal Consultation; Virtual Public Meeting.
- x. **October 27, 2020** – Department of Health and Human Services; Indian Health Service; Notice; correction of Performance Review Board Membership; Notice of Listing of Members of the Indian Health Service's Senior Executive Service Performance Review Board (P.R.B.).

Federal Bills Introduced/Considered by the 116th Congress

[Organized by Latest Action]

- i. **September 30, 2020** – H.R. 7948, Tribal Health Data Improvement Act of 2020. Received in the Senate and read twice and referred to the Committee on Indian Affairs. Introduced by Rep. Greg Gianforte (R-MT-At Large) on August 7, 2020. [Link to Bill](#).
 - Bill would amend Section 3101(a)(1) of the Public Health Service Act ([42 U.S.C. 300kk\(a\)\(1\)](#)) to improve data reporting and dissemination from the Indian Health Service, Indian Tribes, and epidemiology centers. No later than 30 days following the bill's enactment, the Secretary of Health and Human Services shall make available all data collected concerning health care and public health surveillance programs and activities from such programs and activities that are federally supported or conducted to the Indian Health Service, Indian Tribes, and epidemiology centers.
- ii. **October 10, 2020** – S. 227, Savanna's Act. **Became Public Law 116-165**. Introduced by Sen. Lisa Murkowski (R-AK) on January 25, 2019. [Link to bill](#).
 - Bill directs the Attorney General to review, revise, and develop law enforcement and justice protocols to address missing and murdered Native Americans. Bill improves tribal access to federal crime information databases, standardizes protocols between tribal, federal, state, and local entities to respond to missing and murdered Native Americans, and requires the Attorney General and Secretary of the Interior to submit an annual report to Congress on known statistics of missing and murdered Indian women and to provide recommendations on improving such data collection.
- iii. **October 10, 2020** – S. 982, Not Invisible Act of 2019. **Became Public Law 116-166**. Introduced by Sen. Catherine Cortez Masto (D-NV) on April 2, 2019. [Link to bill](#).
 - Bill increases intergovernmental coordination to identify and combat violent crimes against Native Americans occurring on Indian lands. Bill directs the Secretary of the Interior to designate an official within the Office of Justice Services in the Bureau of Indian Affairs to coordinate prevention efforts, grants, and programs across offices within the Bureau of Indian Affairs and with the Department of Justice (D.O.J.) related to the murder of, tracking of, and missing Indians—coordinated efforts with D.O.J. will include the Office of Justice Programs, the Office of Violence Against Women, the Office of Community Oriented Policing Services, the Office of Tribal Justices, and other agencies of the federal government. Bill also requires the Department of the Interior and the Department of Justice to establish a Joint Advisory Committee on reducing violent crime against Native people.
- iv. **October 20, 2020** - S. 294, Native American Business Incubators Program Act. **Became Public Law 116-174**. Introduced by Sen. Tom Udall (D-NM) on January 31, 2019. [Link to bill](#).

- Bill elevates the Office of Native American Business Development to be placed within the Department of Commerce Office of the Secretary, expands the use of the Buy Indian Act to federal agencies outside the Bureau of Indian Affairs and Indian Health Service, and reauthorizes and expands initiatives under the Native American Programs Act. The bill also creates a Native American Business Incubators Program under the Department of the Interior, Office of Indian Energy and Economic Development.
- v. **October 20, 2020** – [S. 3099: Alaska Native Tribal Health Consortium Land Transfer Act of 2020](#). Placed on Senate Legislative Calendar. Committee Report [S.Rept. 116-281](#). Introduced by Sen. Lisa Murkowski (R-AK) on December 18, 2019. [Link to bill](#).
- Bill would authorize the Secretary of Health and Human Services to convey certain property interests containing 10.87 acres in Sitka, Alaska to the Southeast Alaska Regional Health Consortium no later than 2 years after passage of this Act.
- vi. **October 20, 2020** - [S. 3100: Alaska Native Tribal Health Consortium Land Transfer Act of 2020](#). Placed on Senate Legislative Calendar. Committee Report [S.Rept. 116-282](#). Introduced by Sen. Lisa Murkowski (R-AK) on December 18, 2019. [Link to bill](#).
- Bill would authorize the Secretary of Health and Human Services to convey certain property interests in Anchorage, Alaska to the Alaska Native Tribal Health Consortium no later than 180 days after passage of this Act.
- vii. **October 21, 2020** - [S.209, PROGRESS for Indian Tribes Act](#). ***Became Public Law No: 116-180***. Introduced by Sen. John Hoeven (R-ND) on January 24, 2019. [Link to bill](#).
- Bill authorizes the Secretary of the Interior, acting through the Director of the Office of Self-Governance, to select no more than 50 new Indian tribes per year to participate in self-governance programs. Tribes participating in tribal self-governance may carry out construction programs and projects and may, upon approval of the Secretary of the Interior, assume some federal responsibilities under the National Environmental Policy Act of 1969.

Federal Administrative and Regulatory Actions

- i. **October 2, 2020** – [Environmental Protection Agency; Notice; Comprehensive Environmental Response, Compensation and Liability Act \(CERCLA\) or Superfund, Section 128\(a\); Notice of Grant Funding Guidance for State and Tribal Response Programs for Fiscal Year 2021](#). [Link to Federal Register Notice](#).
- The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes a noncompetitive \$50 million grant program to establish or enhance state and tribal response programs. These response programs generally address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination.
 - For Fiscal Year (F.Y.) 2021, the Environmental Protection Agency (E.P.A.) will consider grant requests up to a maximum of \$1.0 million per state or tribe. This document announces the availability of guidance that will assist states and tribes in the development and submission of funding requests and these funds.
 - Deadline: E.P.A. Regional offices will accept requests for section 128(a) noncompetitive grant awards through December 11, 2020.

- For further information, follow the link above or contact: Melissa Papasavvas, Office of Brownfields and Land Revitalization, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; (202) 566-0435.

ii. October 9, 2020 – Department of the Interior; Bureau of Indian Education; Notice of Tribal consultation; Bureau of Indian Education: National Policy Memorandum on Section 504 of the Rehabilitation Act of 1973 (NPM-EDUC-33). [Link to Federal Register Notice](#).

- This document announces that the Bureau of Indian Education (B.I.E.) will be conducting consultation meetings by webinar to obtain oral and written comments on the B.I.E. National Policy Memorandum ([NPM-EDUC-33](#)). The Memorandum is an interim policy, applicable to BIE-operated elementary and secondary schools and dormitories, and relates to the nondiscrimination prohibitions based on disability found in Section 504 of the Rehabilitation Act of 1973 and the Department's implementing regulations. The Department will use comments received during consultation to inform its development of a final Section 504 policy for BIE-operated elementary and secondary schools and dormitories.
- Webinar consultation meetings will be held on November 9 and 10. Consultation meetings for Tribes are scheduled for 4 p.m. - 5 p.m. EDT both days. Consultation meetings open to the public will be scheduled for 5 p.m. – 6 p.m. EDT. Register in advance for either meeting by following this [link](#).
- If unable to attend any of the webinar meetings, comments may be submitted in the following ways: Mail or hand-deliver comments to Tracie Atkins, Bureau of Indian Education, 1001 Indian School Road, Albuquerque, NM 87104; fax written comments to (505) 563-3043; email written comments to tracie.atkins@bie.edu.
- Deadline: written comments must be received on or before November 27, 2020, 11:59 p.m. E.S.T.
- For further information contact: Tracie Atkins, BIE 504 Program Coordinator, (202) 893-3553 or tracie.atkins@bie.edu.

iii. October 14, 2020 – Department of the Interior; Bureau of Indian Education; Proposed rule; Use of Bureau-Operated Schools by Third Parties Under Lease Agreements and Fundraising Activity by Bureau-Operated School Personnel. [Link to Federal Register Notice](#).

- Congress authorized the Director of the Bureau of Indian Education (B.I.E. or Bureau) to enter into agreements with third parties to lease the land or facilities of a Bureau-operated school in exchange for funding that benefits the school. This proposed rule establishes standards for the appropriate use of lands and facilities under a lease agreement, provisions for standards defining what 'benefits' a school, and accountability standards to ensure ethical conduct, among other things. This proposed rule also establishes standards to implement authority provided by Congress for B.I.E. personnel to fundraise on behalf of Bureau-funded schools.
- Comments identified by RIN number 1076-AF55 may be submitted by any of the following methods: Through the Federal eRulemaking Portal by following this [link](#); by email (include RIN number 1076-AF55 in the subject line of the message) to: consultation@bia.gov; by mail or hand-delivery/courier to: Office of Regulatory Affairs & Collaborative Action—Indian Affairs (RACA), U.S. Department of the Interior, 1849 C Street N.W., Mail Stop 4660, Washington, DC 20240.

- Deadline: please submit written comments by December 14, 2020.
- For further information contact: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273-4680; elizabeth.appel@bia.gov.

iv. October 14, 2020 – Department of the Interior; Bureau of Land Management; Notice of call for nominations; FY2020 National Call for Nominations for Resource Advisory Councils. [Link to Federal Register Notice.](#)

- The purpose of this notice is to request public nominations for 11 of the Bureau of Land Management's (B.L.M.) statewide and regional Resource Advisory Councils (R.A.C.) located in the West that have vacant positions and/or members whose terms are scheduled to expire. These R.A.C.s provide advice and recommendations to the B.L.M. on land use planning and management of the National System of Public Lands within their geographic areas.
- Nominations for the Arizona R.A.C. should be submitted to: Dolores Garcia, B.L.M. Arizona State Office, 1 North Central Avenue, Suite 800, Phoenix, AZ 85004; Phone: (602) 417-9241.
- All nominations must include the following: A completed R.A.C. application, which can either be obtained through your local B.L.M. office or online [here](#); letters of reference from represented interests or organizations; and any other information that addresses the nominee's qualifications.
- Deadline: all nominations must be received no later than November 13, 2020.

v. October 14, 2020 – U.S. Commission on Civil Rights; Announcement of meetings; Notice of Public Meeting of the Arizona Advisory Committee. [Link to Federal Register Notice.](#)

- Notice is hereby given that the Arizona Advisory Committee (Committee) to the Commission will hold a series of meetings via teleconference. The purpose of the meetings is to discuss their project proposal and planning online panels on "COVID-19 and the Native American Community."
- The meetings will take place on Tuesday, November 10, Tuesday, December 1, and Tuesday, December 15, 2020 at 12 p.m. Mountain Time.
- This meetings will be available to the public through the following toll-free call-in number: 800-353-6461, conference I.D. number: 1659738. Any interested member of the public may call this number and listen to the meeting. Members of the public are then entitled to make comments during the open period at the end of the meeting.
- Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012.
- For further information contact: Brooke Peery, Designated Federal Officer, (D.F.O.) at bpeery@usccr.gov or by phone at (202) 701-1376.

vi. October 16, 2020 – Department of Health and Human Services; Indian Health Service; Notice; Community Opioid Intervention Pilot Projects. [Link to Federal Register Notice.](#)

- The Indian Health Service (I.H.S.) is accepting applications for grants for the Community Opioid Intervention Pilot Projects (COIPP). This program was first established by the

Consolidated Appropriations Act of 2019, ([Pub. L. 116-6](#)) and the accompanying Conference Report, H. Rpt. 116-9. I.H.S. received an appropriation of \$10 million in the F.Y. 2020 Further Consolidated Appropriations Act ([Pub. L. 116-94](#)).

- I.H.S. will provide technical assistance to grantees to collect and evaluate performance of the pilot program. This program is described in the Assistance Listings at this [link](#).
- Approximately 33 awards will be issued under this program announcement. Grant awards will be distributed as follows in the approximate numbers: 2 grants in each I.H.S. Area (24 awards total); 6 set-aside grants for Urban Indian Organizations; 3 set-aside grants with Maternal & Child Health as the population of focus. One grant will be funded in each of the three highest priority I.H.S. Areas (Alaska, Bemidji, and Billings). These priority areas were determined by reviewing opioid-related mortality data from the C.D.C. and opioid use disorder data and opioid-related birth data from the I.H.S. National Data Warehouse. The period of performance is for three years.
- The application package and detailed instructions for this announcement can be found at this [link](#). Please direct questions regarding the application process to Mr. Paul Gettys at (301) 443-2114 or (301) 443-5204.
- Deadline: applications must be submitted by December 15, 2020.

vii. October 16, 2020 – Department of the Interior; Bureau of Indian Affairs; Final rule; confirmation; Indian Child Protection and Family Violence Prevention; Minimum Standards of Character. [Link to Federal Register Notice](#).

- The Bureau of Indian Affairs (B.I.A.) is confirming the interim final rule published on June 23, 2020, updating the minimum standards of character to ensure that individuals having regular contact with or control over Indian children have not been convicted of certain types of crimes or acted in a manner that placed others at risk, in accordance with the Indian Child Protection and Family Violence Prevention Act.
- This final rule went into effect on October 16, 2020.
- For further information contact: Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, (202) 273-4680; elizabeth.appel@bia.gov.

viii. October 16, 2020 – Department of Health and Human Services; Indian Health Service; Notice; Urban Indian Education and Research Program. [Link to Federal Register Notice](#).

- The Indian Health Service (I.H.S.) is accepting applications for a competing supplement to current cooperative agreements for the Urban Indian Education and Research Program. This program is described in the Assistance Listings located at this [link](#).
- The total funding identified for fiscal year (F.Y.) 2020 is approximately \$1,000,000. The I.H.S. is under no obligation to make awards that are selected for funding under this announcement. Only one award will be issued under this program announcement. The period of performance is for two years.
- The application package and detailed instructions for this announcement can be found at this [link](#). Please direct questions regarding the application process to Mr. Paul Gettys at (301) 443-2114 or (301) 443-5204.
- Deadline: applications must be submitted by November 6, 2020.

ix. October 20, 2020 – Department of Commerce; Bureau of the Census; Notice of meeting; 2020 Census Tribal Consultation; Virtual Public Meeting. [Link to Federal Register Notice.](#)

- The Bureau of the Census (Census Bureau) is continuing tribal consultation meetings through calendar year 2020. The Census Bureau will provide updates and seek input on the 2020 Disclosure Avoidance System (D.A.S.). For 2020 Disclosure Avoidance System Updates, use this [link](#).
- The Census Bureau conducted one national tribal consultation webinar in September 2019 and two formal tribal consultation meetings in October 2019 specific to the 2020 Disclosure Avoidance System. The Census Bureau is planning one additional national webinar with federally recognized tribes, which will provide a forum for tribes to receive an update and to provide input on the 2020 Disclosure Avoidance System regarding work done specifically for the American Indian and Alaska Native tribal areas. The Census Bureau will provide information directly to tribes prior to the national webinar to give tribes time to review and provide input.
- The Census Bureau will conduct the tribal consultation webinar on Tuesday, November 17, 2020, at 3:00 p.m. E.S.T. The Census Bureau tribal consultation webinar meeting will be held via the WebEx platform at this [link](#). For audio, please call the following number: 888-456-0349. When prompted, please use the following Participant Code: 3683767. Event Password (If Requested): @Tribal.
- Deadline: any questions or topics to be considered in the tribal consultation meetings must be received in writing via email by Tuesday, November 17, 2020.
- For further information contact: Dee Alexander, Tribal Affairs Coordinator, Office of Congressional and Intergovernmental Affairs, Intergovernmental Affairs Office, U.S. Census Bureau, Washington, DC 20233; telephone (301) 763-9335; fax (301) 763-3780; or by email at Dee.A.Alexander@census.gov or at ocia.tao@census.gov.

x. October 27, 2020 – Department of Health and Human Services; Indian Health Service; Notice; correction of Performance Review Board Membership; Notice of Listing of Members of the Indian Health Service's Senior Executive Service Performance Review Board (P.R.B.). [Link to Federal Register Notice.](#)

- The Indian Health Service published a notice in the Federal Register on October 14, 2020 listing members of the Indian Health Service's Senior Executive Service Performance Review Board. The membership listing failed to include Mr. Christopher Mandregan as a member of the Performance Review Board.
- For further information contact: Nathan Anderson, Human Resources Specialist, 5600 Fishers Lane, Rockville, MD 20857, Phone: (605) 681-4940.

For more information contact:



American Indian Policy Institute
Watts College of Public Service and
Community Solutions
Arizona State University

<https://aipi.asu.edu/>

Phone: 480-965-1055 / Fax: 480-965-6404