



Legislative Action Alert

House Introduces Short-Term Continuing Resolution for Fiscal Year 2021

*Funds Indian Health Service and Special Diabetes Program for Indians
through December 11, 2020*

FOR IMMEDIATE RELEASE

September 21, 2020

House Releases Short-Term Stopgap to Fund Federal Government through December 11

Earlier today, Monday, September 21, 2020, the House of Representatives released a short-term continuing resolution (CR) for Fiscal Year (FY) 2021 under [H.R. 8319](#), in hopes of avoiding a government shutdown at the end of the month and funding the federal government at current levels through December 11, 2020. The CR includes an extension of multiple expiring health programs including the Special Diabetes Program for Indians (SDPI) through December 11, the expiration date for the CR itself. This would equal the *fifth* short-term extension of SDPI in just the past year alone. With SDPI's current reauthorization set to expire on November 30, this extension under H.R. 8319 would last eleven days.

The House is aiming to vote on the CR this week; however, some key differences exist on the content of the CR which could impact that timeline. The Trump Administration had requested federal relief for farmers to address losses stemming from trade policies be included in the CR, while many Democrats were pushing for food assistance funds. Both of those were scrapped from the released text in hopes of keeping the CR simple enough to avoid a drawn out fight. Congressional leaders and the Administration have agreed to avoid a government shutdown and pass a short-term spending fix, but it remains unclear if differences on CR content may impact a timeline for votes.

Background: Prospects for a Deal

As NIHB [reported previously](#), the House of Representatives passed a full-year appropriations package for Indian Health Service (IHS) and the vast majority of the federal government back in July of this year. The House bill outlined a roughly \$445 million increase to the IHS budget above FY 2020 enacted levels to a total of \$6.5 billion. However, the U.S. Senate never

formally began working on any FY 2021 appropriations bills, thus raising the specter of a CR for the next fiscal year. Now with the 2020 election only six weeks away, Congress is racing to flat-fund the government in order to avoid a devastating government shutdown amidst a pandemic. It is widely believed that the CR will be the final *legislative* package Congress passes before the election.

The House CR does not include additional relief funds to address the COVID-19 pandemic, keeping funding and policy "anomalies" to a minimum in an effort to achieve swift passage.

On September 8, NIHB was joined by the National Congress of American Indians (NCAI) and the National Council of Urban Indian Health (NCUIH) [in a letter to congressional leadership](#) urging emergency appropriations for the Indian health system alongside the CR in furtherance of federal Treaty obligations and to address the devastating impact of COVID-19 in Indian Country. Unlike other federal healthcare entities like the Veterans Health Administration and the Medicaid program, IHS remains subject to the destabilizing impacts of CRs and government shutdowns. Stopgap measures do not include adjustments for things like rising medical inflation, and generally limit federal agencies to operate on autopilot with little authority to change policies or programs while operating under them.

Tribes and NIHB have repeatedly voiced strong concerns with the impact that a short-term CR without emergency appropriations would have on the Indian health system, which is already chronically underfunded and has lost billions in 3rd party reimbursements due to COVID-19 related shutdowns. It remains unclear if Congress will be able to coalesce behind a full-year appropriations package come December, or if another stopgap measure will be necessary. Undoubtedly, the outcome of the election will impact whether a full-year spending deal is reached or if Congress punts once again.

The tragic passing of Supreme Court Justice Ruth Bader Ginsburg on Friday, September 18 has also roiled the Capitol and especially the U.S. Senate, where a bitterly contentious fight to replace the new vacancy has already begun in earnest. Democrats and Republicans remain sorely divided on when the nomination and confirmation process to fill the late Justice Ginsburg's seat should begin, with Majority Leader McConnell announcing that the Senate will swiftly commence with the nomination process while Senate Democrats and Leader Schumer have urged that the vacancy be filled after the election when the next President begins their term.

The timeline of a Supreme Court nomination and confirmation process will more than likely impact not only a year-end funding package, but also whether Congress can agree to a stimulus package to address the COVID-19 pandemic. For months, congressional leaders have failed to achieve a bipartisan and bicameral agreement, and the acrimony likely to ensue over the battle to replace Justice Ginsburg only further raises tensions and calls into question whether a stimulus deal can be reached. NIHB's September 8 letter alongside NCAI and NCUIH outlined the top COVID-19 health priorities communicated by Tribes, including:

- Minimum \$2 billion for the Indian health system for services and facilities

- Minimum \$1 billion to replenish lost 3rd party reimbursements
- Minimum \$1 billion for water and sanitation infrastructure
- Long-term reauthorization for the Special Diabetes Program for Indians

Special Diabetes Program for Indians

Despite significant bipartisan, and bicameral support for SDPI and the other expiring health extenders - which include the National Health Service Corps, funding for community health centers, and the Teaching Health Center Graduate Medical Education program - each are currently slated to only be reauthorized for the extent of the CR, through December 11. This would be the fifth short-term extension of all of these programs since September 2019, and the third during the devastating COVID-19 pandemic.

Earlier this year, NIHB conducted a survey of all SDPI grantees to get a better sense of how the short-term extensions combined with the pandemic have harmed program operations. 1 in 5 SDPI programs reported having to furlough staff, including healthcare providers, due to funding uncertainty, while a quarter of all programs announced delays in purchasing medical equipment to monitor diabetes - all in the backdrop of a pandemic that has severely harmed Indian Country. On September 11, [NIHB was joined by 17 organizational signatories in a letter to congressional leadership](#) demanding a long-term 5-year reauthorization of SDPI and other expiring health programs.

Back in the summer, Senator Martha McSally (R-AZ) introduced [S. 3937](#) alongside Senator Murkowski (R-AK) and Senator Sinema (D-AZ), which would have reauthorized SDPI for 5-years at an increase to \$200 million annually for the program, and the authority for Tribal governments and Tribal organizations to receive SDPI awards through "638" self-determination and self-governance contracts and compacts. Since then, IHS provided technical assistance (TA) to Congress on the option for Tribes to receive SDPI awards through the 638 process; however, the IHS TA strongly diverged from the recommendations and guidance of Tribal leaders and officials and attempted to deter Congress from moving forward with this change.

The controversial TA added to the procedural delays impacting the timeline for reauthorization of SDPI, further making it vulnerable to another short-term extension. On September 10, [NIHB submitted a letter to Rear Admiral \(RADM\) Weahkee](#) firmly rebuking the IHS TA and demanding that the agency immediately re-engage with Congress to correct and clarify their TA to align with Tribal positions and guidance. Later this week, S. 3937 is set to be discussed during a [legislative hearing before the Senate Committee on Indian Affairs](#), where Weahkee is slated to testify. That hearing is scheduled for Wednesday September 23.

It remains unclear if a long-term reauthorization can be achieved in December, and can hinge in part on the outcome of the November election. Committee leadership on House Energy & Commerce, the Senate Health, Education, Labor and Pensions Committee, and the Senate Indian Affairs Committee - all of which have jurisdiction over SDPI - have long called for a long-term reauthorization. Congressional leadership have also outlined support for such a move; however, it remains possible that SDPI and the other health programs will again be used as leverage to build consensus on

unrelated proposals, which could again lead to a short-term fix.

NIHB will continue strongly advocating for a long-term reauthorization of SDPI to include an increase to \$200 million overall, with the option for Tribes and Tribal organizations to receive awards through 638 contracts and compacts, and will continue to provide updates as they become available.

Congress Needs to Hear from Tribes about SDPI - Contact Your Member of Congress Today Urging Long-Term Reauthorization!

[Click here](#) for a sample letter to Congress on SDPI

[Click here](#) for sample talking points on SDPI

[Click here](#) for a fact sheet on the impacts of COVID-19 and short-term extensions on SDPI

For any questions on SDPI, COVID-19 stimulus funding, or FY 2021 appropriations, please contact NIHB Director of Congressional Relations, Shervin Aazami, at saazami@nihb.org

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