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## HILL UPDATES

### House Passes Spending Bill with Sweeping Cuts, Government Shutdown Possible

After five days of intense debate, the House of Representatives passed a highly controversial spending bill to fund the federal government through the remainder of Fiscal Year 2011. In the early morning hours of Saturday, February 19<sup>th</sup>, H.R. 1, The Continuing Appropriations Act of 2011, was approved 235-189 on a largely party line vote, with all Democrats and 3 Republicans voting against the measure. The proposed H.R. 1 reduces current spending by at least \$61 billion dollars and by the end of debate, a total of 67 amendments were added, many of which seek further spending reductions.

While the bill makes drastic cuts to quite a few government agencies and programs, the Indian Health Service emerges relatively

unscathed. H.R. 1 funds total IHS services at \$3.88 billion, which is about \$226 million more than FY 2010 levels but \$77 million less than the President's FY 2011 request. Some IHS programs even enjoy increased funding, including an \$83 million increase to Contract Health Services and a \$46 million increase in Contract Support Costs, which were both funded at the level of the President's FY 2011 request. However, under the proposed H.R. 1, IHS facilities funding would be cut by \$139 million under this proposal, from \$394 million to \$255 million.

During debate under an open rule, Members of the House voted to add a number of amendments to H.R. 1 that could have devastating effects on the Patient Protection and Affordable Care Act (ACA), and with it, the Indian Health Care Improvement Act (IHICIA). Nine of the 67 amendments included in the final bill seek to defund the implementation of ACA, employing methods such as denying salaries to Department of Health and Human Services employees participating in implementation activities or prohibiting the usage of funds to enforce the "individual mandate" provision.

Although the bill has been sent to the Senate for consideration, Senate Leadership has publicly refused to vote on H.R. 1 in its current form. Senate Democrats are working to draft their own version of the federal spending bill that would freeze discretionary spending at FY 2010 levels. In order to avoid a government shutdown, a spending bill must be approved and signed into law before the



current Continuing Resolution (CR) expires on March 4<sup>th</sup>. But the House and Senate remain divided on how to fund the government this year and will likely need more time to deliberate before a compromise can be reached.

House Democrats have proposed a short-term CR that would fund the government through March 31<sup>st</sup>, to allow this to happen. House Republican Leadership, however, is crafting their version of a short-term CR to be voted on next week, which would include 2 weeks of funding at current levels for most agencies and programs. However, it does terminate funding for 8 government programs and cuts earmarked money for a variety of projects. This achieves a spending reduction of about \$2 billion a week. This would force the Senate to enact a short-term CR with major cuts or risk a government shutdown. President Obama has threatened to veto H.R. 1, should it pass the Senate.

### **House Members Introduce Bills to Preserve IHCA**

Two Republican Members of the House have introduced bills that seek to preserve the Indian Health Care Improvement Act in the event that the Patient Protection and Affordable Care Act (ACA) is successfully repealed by its detractors. A full repeal continues to remain highly unlikely during this Congress. Should it occur, the permanent reauthorization of the Indian Health Care Improvement Act (IHCA) could be repealed along with ACA. These bills seek to prevent this from happening.

Introduced on January 7<sup>th</sup>, Congressman Don Young's (R-AK) bill, H.R. 215, repeals ACA, while preserving IHCA. It currently has no co-sponsors and has been referred to jurisdictional committees.

Congressman Tom Cole's (R-OK) version is more of a contingency plan. H.R. 536, the Indian Health Care Improvement Act of 2011, is standing by in the event of a full ACA repeal. After being introduced on February

8<sup>th</sup>, it too has no co-sponsors and awaits action from committees.

### **Chair of Indian Affairs Appoints New Staff Director/Chief Counsel**

The new Chairman of the Senate Committee on Indian Affairs, Senator Daniel Akaka (D-HI), has chosen Loretta Tuell, as the committee's Staff Director/Chief Counsel. A member of the Nez Perce tribe, Tuell has extensive experience in Indian law and Indian Country. She has prior experience with the Committee, serving as Counsel to former Chairman Daniel Inouye (D-HI).

Ms. Tuell has the distinction of being a founding partner of one of the first legal firms in Washington, DC to be completely Indian-owned, as well as founded by a Native woman. In addition to her work on Capitol Hill and with her firm, Ms. Tuell has held a number of Leadership roles within the Bureau of Indian Affairs. She has an undergraduate degree from Washington State University and a law degree from UCLA. Her work with the committee will begin in early March.

As Ms. Tuell returns to the Committee on Indian Affairs, former Staff Director, Allison Binney, departs. With the Committee since 2005, she became Staff Director in 2008. Under the direction of Ms. Binney, the Committee enacted a wealth of historic legislation including, the permanent reauthorization of the Indian Health Care Improvement Act and the reauthorization of the Special Diabetes Program for Indians.

## **ADMINISTRATION UPDATES**

### **President Obama Releases FY 2012 Budget Request**

On Monday, February 14, President Obama released his budget request for Fiscal Year (FY) 2012 to Congress. As expected, the President's budget includes over \$1 trillion in



deficit reduction, two-thirds of which is achieved through spending cuts. Cuts include reductions in several government programs, and a 5-year freeze on domestic spending.

In spite of this, the President's request for the Indian Health Service (IHS) budget is actually higher than in previous years. At \$4.624 billion, it represents a 14.1% increase over FY 2010 appropriated levels and a 4.9% increase over his request for FY 2011. In exempting IHS from the spending freeze, the Obama Administration continues to demonstrate its commitment to honor the federal government's treaty obligations and trust responsibilities.

As both Houses of Congress remain locked in debate over how to fund the remainder of this year, it is unclear which parts, if any, of the President's 2012 request will be appropriated. The continuing review and work on appropriations for FY 2011 and FY 2012 remains in their hands.

### **White House Hires New Native Affairs Staffer to OPE**

The White House has named Charles Galbraith, a Navajo citizen, to the position of Deputy Associate Director of the Office of Intergovernmental Affairs in the White House Office of Public Engagement. During his tenure, he will be responsible for working with Tribes and Indian officials, serving as a liaison between the White House and Indian Country.

With an undergraduate degree from the University of Chicago and a law degree from the University of Arizona, Mr. Galbraith has previous experience as a Legislative Assistant for Sen. Tim Johnson (D-SD) and as Assistant U.S. Attorney for Arizona. He also worked on the Obama presidential campaign as an organizer with the Native American Domestic Policy Committee. Most recently, Mr. Galbraith was Deputy Associate Counsel for presidential personnel in the White House. He takes the place of former White House staffer, Jodi Gillette, who left OPE last month

to become Deputy Assistant Director of the Bureau of Indian Affairs.

### **Tribal Consultation Ongoing**

On February 9, IHS released a "Dear Tribal Leader" letter initiating consultation on a draft data sharing agreement between IHS and Tribal Epidemiology Centers (TECs). Please send your comments to [consultation@ihs.gov](mailto:consultation@ihs.gov) by March 24<sup>th</sup>.

Additionally, the Obama Administration has also initiated consultation on the Let's Move! Indian Country initiative. The Departments of the Interior, Agriculture, Health and Human Services, and Education have come together to help combat childhood obesity in Indian Country. Comments should be sent to [letsmoveindiancountry@doi.gov](mailto:letsmoveindiancountry@doi.gov) by March 4<sup>th</sup>.

Comments are still being accepted on the funding distribution for the Special Diabetes Program for Indians (due February 28<sup>th</sup>) and on the Indian Health Care Improvement Fund (due March 1<sup>st</sup>). These can also be sent to [consultation@ihs.gov](mailto:consultation@ihs.gov).

## **OTHER NEWS**

### **Controversy over Constitutionality of ACA's Individual Mandate Continues**

A third district court judge has upheld the constitutionality of the Patient Protection and Affordable Care Act's (ACA) mandate requiring individuals to purchase health insurance by 2014. Late Tuesday night, D.C. Judge Gladys Kessler ruled that the individual mandate's constitutionality is grounded in the "necessary and proper clause" and the commerce clause, as those that choose not to purchase insurance and then get sick are obtaining "free rides" within the health care system on the backs of those who consistently pay premiums. Moreover, she rejected previous arguments that Congress is



attempting to regulate inactivity, saying that this claim is based only in semantics. This decision brings the tally on individual mandate rulings to 3-2. A Clinton appointee, Kessler joins two other Democratically-appointed judges in support of constitutionality, while the two judges who ruled against the individual mandate are Republican-appointed.

Meanwhile, the second judge to rule against the mandate and strike down ACA in its entirety, Judge Roger Vinson (FL) is being pressed for clarification on his ruling by the Obama Administration. Last week, the Department of Justice requested that Vinson clarify whether the 26 states challenging the law must continue to comply with it after the Judge ruled it unconstitutional. Citing the ruling, many of the plaintiff states in the case have already halted implementation, including Florida and Alaska. Judge Vinson has said that he will reply “promptly.”

### **Aspen Institute to Launch Center for Native American Youth**

On Monday, February 28<sup>th</sup>, the Aspen Institute will officially launch a new Center for Native American Youth. Established and chaired by former Chairman of the Senate Committee on Indian Affairs, Byron Dorgan (D-ND), the think tank will focus on near-epidemic issues facing at-risk Native youth, such as suicide, substance abuse, and accidental death. Among the goals of the Center will be to increase national awareness of these issues through communication, policy development, and advocacy. The Center is headquartered in Washington, D.C.

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## **CALENDAR OF EVENTS**

### **NCAI TRIBAL NATIONS LEGISLATIVE SUMMIT**

WESTIN CITY CENTER  
WASHINGTON, D.C.

FEB. 28 – MARCH 2, 2011

[WWW.NCAI.ORG](http://WWW.NCAI.ORG)

### **HOUSE ENERGY AND COMMERCE COMMITTEE HEARING ON, “THE CONSEQUENCES OF OBAMACARE: IMPACT ON MEDICAID AND STATE HEALTH CARE REFORM”**

2123 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, D.C.

MARCH 1, 2011 (9:00 AM)

### **HHS TRIBAL BUDGET AND POLICY RESOURCE DAY**

HUBERT H. HUMPHREY BUILDING  
WASHINGTON, D.C.

MARCH 2, 2011 (8:30 AM – 5:00 PM)

### **TRIBAL COLLABORATION MEETING ON *LET’S MOVE!* IN INDIAN COUNTRY**

WESTIN CITY CENTER  
WASHINGTON, D.C.

MARCH 2, 2011 (1:00 – 3:00 PM)

To participate, please email Ms. Brandi Sweet at [brandisweet@bic.edu](mailto:brandisweet@bic.edu)

### **13<sup>TH</sup> NATIONAL HHS TRIBAL BUDGET AND POLICY CONSULTATION FOR FY 2013**

HUBERT H. HUMPHREY BUILDING  
WASHINGTON, D.C.

MARCH 3 – 4, 2011

### **WHITE HOUSE TRIBAL NATIONS SUMMIT FOLLOW UP MEETING**

WESTIN CITY CENTER  
WASHINGTON, D.C.

March 3, 2011 (9:00 am – 3:00 pm)