



National Congress of American Indians

NCAI News

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House Appropriations Committee Approves FY 2003 Spending Bill -- On Tuesday, July 9, the House Appropriations Committee approved its FY 2003 funding bill for the Department of Interior and Related Agencies. The bill and report have not yet been filed, but NCAI has obtained a copy of the language. Highlights of the measure are outlined below.

Of particular concern are provisions relating to the *Cobell* litigation on trust accounts, including language that would limit historical accounting of trust accounts to no earlier than January 1985. Report language indicates that the Committee intends for the balance in each account as of January 1985 to be considered correct for purposes of historical accounting — even if clear losses can be demonstrated prior to that date.

Also of concern is an amendment offered by Rep. Wolf (R-VA) and passed by voice vote during Committee consideration of the bill to create a commission to examine and report on selected aspects of U.S. policy toward Native Americans. The commission would be composed of a majority of representatives with clear potential for antagonistic views toward tribes, including one representative each from the National Governor's Association, the National Association of Attorneys General, Office of the Attorney General, the departments of Treasury, Interior, and Commerce, the National Indian Gaming Commission, local/municipal governments, and small businesses. Two representatives each from gaming and non-gaming tribes also would be appointed to the commission. The commission would be required to report and provide legislative recommendations on the following:

- Living standards in Indian Country, including health, infrastructure, economic development, education, and housing
- The effectiveness of current federal programs designed to improve living standards in Indian Country
- Crime control on reservations
- The influence of non-Native investors on the federal recognition process and on the establishment and operation of gaming facilities
- The influence of organized crime on Indian gaming
- The social, environmental, and social impact of Indian gaming on local communities
- The relationship between tribes and non-tribal communities in the same area
- Regulations that govern gaming to reduce the potential for "abuse or exploitation" by organized crime and the gambling industry

The amendment is identical to provisions contained in H.R. 2244, legislation sponsored by Reps. Wolf and Shays (R-CT) to restrict Indian gaming activities. We expect that a point of order will be made against the amendment during floor consideration of the Interior bill under House Rule XXI, which prohibits legislating in an appropriations bill as well as funding unauthorized agencies or programs.

Bureau of Indian Affairs

The House bill provides \$1.9 billion for BIA Operation of Indian Programs, \$59.2 million over the current level and \$22 million over the budget request. Highlighted increases and decreases from current funding include:

- TPA -- \$2 million for ISD fund; \$4 million for tribal courts; \$1.2 million for base funding for six new tribes; \$2.05 million for IIM account management; \$585,000 for energy development on tribal lands and \$477,000 for natural resources related to energy development; \$8.13 million for trust reform.
- Other Recurring Programs -- \$2 million for Indian Student Equalization Program funds; \$3 million for early childhood development; \$2 million for student transportation; \$1.9 for education facilities operations; \$6 million for administrative cost grants. Like the Senate version of the Interior bill, the House bill rejects the administration's proposal to privatize BIA-operated schools.
- Non-Recurring Programs – Several earmarks are added.
- Central Office Operations -- \$5.5 for information technology issues as part of trust reform and \$5.7 million for trust services.
- Construction – While education facilities improvement and repair is increased \$2.58 million, a commensurate cut is taken from replacement school construction.

(\$ in thousands)	FY 2002 Enacted	FY 2003 Request	FY 2003 House Bill	S. 2708 S. Rept. 107-201
BIA Operation of Indian Programs				
Tribal Priority Allocations	752,156	775,534	780,654	775,534
Other Recurring Programs	586,968	596,192	607,196	595,642
Non-Recurring Programs	72,798	67,510	70,824	72,360
Central Office Operations	58,106	72,490	70,035	72,490
Regional Office Operations	62,679	64,223	64,223	64,223
Special Programs/Pooled Overhead	267,102	261,161	266,132	278,886
Pension System/Employee Health	0	21,876		0
Total – Operation of Indian Programs	1,799,809	1,858,986	1,859,064	1,859,135
BIA Construction				
Education	292,503	292,717	292,717	295,717
Public Safety and Justice	5,541	5,046	5,046	5,046
Resources Management	50,645	39,173	39,173	39,173
Construction Management	6,264	6,134	6,134	6,134
General Administration	2,179	2,182	2,182	2,182
Pension System/Employee Health	0	1,053		1,053
Total – BIA Construction	357,132	345,252	345,252	348,282
Indian Land and Water Claims Settlements				
Miscellaneous Payments To Indians	60,949	57,949	60,949	57,949
Indian Guaranteed Loan Program	4,986	5,493	5,493	5,493

Like the Senate bill, the House bill continues the following legislative riders affecting the BIA and Office of Special Trustee:

- Provides that advance payments under the Indian Self-Determination and Education Assistance Act may be: (1) invested only in obligations of the United States, obligations or securities that are guaranteed by the United States, or mutual (or other funds) registered with the Securities and Exchange Commission that invest in obligations of the United States or securities that are guaranteed or insured by the United States; or (2) deposited only into accounts that are insured by a federal agency or instrumentality, or are fully collateralized (Section 111)
- Permits the transfer of unobligated balances from the BIA or OST for expenditure or transfer for trust management activities (Section 113)
- Allows the hiring of administrative law judges to address the Indian probate backlog (Section 115)
- Permits the redistribution of TPA and tribal base funds to alleviate funding inequities (Section 116)
- Requires the allocation of BIA postsecondary school funds to be allocated consistent with unmet needs (Section 117)
- Restricts the use of the Huron Cemetery (Section 118)

There also are several provisions affecting the *Cobell v. Norton* case included in the bill. The measure would limit payment to the Court Monitor and Special Master for work performed on the case to 200 percent of the highest Senior Executive Service rate of pay (Section 132) and would authorize the Secretary to use discretionary funds to pay attorney fees of current and former employees incurred in the case (Section 134). The bill also would require the Interior Department to provide the Appropriations Committee with the results of the Ernst and Young report on the historical accounting of the five named plaintiffs in *Cobell v. Norton* within 30 days of enactment (Section 131) and would require the Special Trustee to appoint new advisory board members (Section 133).

Office of Special Trustee

Legislative language is included to restrict the historical accounting of IIM accounts required under *Cobell v. Norton* to only those accounts going back to January 1, 1985, unless Congress subsequently authorizes otherwise.

(\$ in thousands)	FY 2002 Enacted	FY 2003 Request	FY 2003 House Bill	S. 2708 S. Rept. 107-201
Office of Special Trustee	99,224	151,027	141,277	151,027
Indian Land Consolidation	10,980	7,980	7,980	10,980

Indian Health Service

To make it easier to compare funding levels, the FY 2003 request figures in the chart do not reflect an Administration proposal to require a number of agencies to pay the federal share of accrued retirement benefits for certain federal employees as well as the post-retirement health benefits for current federal employees.

The House bill provides \$11.9 million to cover the costs of the health care for Public Health Service annuitants. These costs were previously paid by DoD.

The Committee report states that, because there have been no new self-governance compacts recently, funds can be shifted to other accounts.

The bill provides the requested \$4 million for recruiting health professionals, but accompanying report language states that the program should not be limited to former military and VA health professionals, as proposed by the Administration.

Like the Senate report, the House version stipulated that sanitation funds should not be used to provide sanitation facilities for HUD-funded homes. In addition, House committee report states that maintenance program funding increase needs to remain in the base budget for 2004 and beyond.

Section 326 of the bill authorizes a demonstration program for the Cheyenne River Sioux Tribe to permit the Eagle Butte service unit to pay higher salaries and bonuses to attract health professionals, if it can do so at no additional cost.

(\$ in thousands)	FY 2002 Enacted	FY 2003 Request	FY 2003 House Bill	S. 2708 S. Rept. 107-201
Indian Health Services				
Hospitals and Clinics	1,153,711	1,888,540	1,224,540	1,203,104
Dental Health	95,305	100,085	100,285	100,085
Mental Health	47,142	50,626	50,626	50,626
Alcohol and Substance Abuse	135,005	137,744	137,744	137,744
Contract Health Services	460,776	468,130	483,130	468,130
Public Health Nursing	37,781	39,875	39,875	39,875
Health Education	10,628	11,063	11,063	11,063
Community Health Representatives	49,789	50,774	50,774	50,774
Immunization (Alaska)	1,526	1,556	1,556	1,556
Urban Health	30,947	31,528	31,528	31,528
Indian Health Professions	31,165	35,373	35,373	31,318
Tribal Management	2,406	2,406	2,406	2,406
Direct Operations	55,323	55,312	56,134	57,248
Self-Governance	9,876	10,089	1,089	10,089
Contract Support Costs	268,234	270,734	270,734	270,734
Total – Indian Health Services	2,389,614	2,453,835	2,508,756	2,466,280
Health Facilities				
Maintenance and Improvement	46,331	47,331	52,331	46,331
Sanitation Facilities	93,827	93,983	93,983	93,827
Facilities Construction	86,260	72,000	94,294	89,094
Facilities/ Environmental Health Support	126,775	132,963	132,963	129,219
Equipment	16,294	16,294	18,294	16,294
Total – Health Facilities	369,487	362,751	391,865	374,765

A detailed analysis of the Senate version of the Interior Appropriations bill (S. 2708, S.Rept. 107-201) is available in Broadcast #02-049, dated July 3, 2003.

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