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SENATE

{ REPORT
108-306

TO REAUTHORIZE THE NATIVE AMERICAN PROGRAMS ACT OF 1974

JULY 15, 2004.—Ordered to be printed

Mr. CAMPBELL, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 2436]

The Committee on Indian Affairs, to which was referred the bill (S. 2436) to reauthorize the Native American Programs Act of 1974, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE

The purpose of S. 2436, a bill to reauthorize the Native American Programs Act of 1974 is to continue this vital program through 2009.

BACKGROUND

The Native American Programs Act of 1974 (NAPA) is administered by the Administration for Native Americans (ANA) within the Department of Health and Human Services. The Native American Programs Act evolved over time from the Economic Opportunity Act of 1964, which was enacted as part of President Johnson's War on Poverty initiative. In 1990, the Act was amended to provide grants to improve the capability of Indian tribal governments to regulate environmental quality (Pub. L. 101-408). In 1992, NAPA was further amended to establish the Administration for Native Americans in the Office of Administration for Children and Families of the Department of Health and Human Services and to designate the Commissioner for Native American Programs as its head (Pub. L. 102-375). The 1992 amendments also established the Intra-Departmental Council on Native American Affairs within the Department. The Commissioner for Native American

Programs is designated as the chairperson of this Council, and the Director of the Indian Health Service is the vice chairperson. Also in 1992, a grant program to assure the survival and continuing vitality of Native American Languages was added (Pub. L. 102-524) to the Administration's responsibilities.

The major goals of the ANA in administering the Native American Programs Act are to: (1) assist tribal and Alaska Native village governments, Native American institutions, and local leadership to exercise control and decision making over their resources; (2) foster the development of stable, diversified local economies and economic activities that will provide jobs, promote economic well-being, and reduce dependency on public funds and social services; and (3) support local access to, and, control and coordination of, services and programs that safeguard the health and well-being of people and are essential to a thriving and self-sufficient community.

The ANA awards annual grants on a competitive basis and provides many native communities with critical startup funds for social, governance, economic, environmental, and cultural programs that are developed by the communities themselves. The program addresses key needs for native communities by helping them begin and expand businesses, enhancing tribal capabilities to promote natural environments, and preserving and restoring native languages. The Native American Programs Act supports Native American self-governance in the development of economic, social, and governance capacities of Native American communities.

On June 8, 2004, the Committee held a legislative hearing on S. 2436. Witnesses included the Commissioner of the Administration for Native Americans, Department of Health and Human Services, and representatives of Native American groups that have benefitted from the funding provided through the Native American Programs Act.

All witnesses concurred that the Native American Programs Act was achieving its purposes and should be reauthorized. In addition, at the request of the Department of Health and Human Services, the Committee amended the bill to include language which would direct that the Intra-Departmental Council within the Office of the Secretary be co-chaired by the Commissioner of the Administration for Native Americans and the Director of the Indian Health Service.

SECTION-BY-SECTION ANALYSIS

Section 1. Native American Programs Act of 1974

Section 1(a) amends section 803(d)(1) of the Native American Programs Act of 1974, by directing that the Commissioner of the Administration for Native Americans and the Director of the Indian Health Service serve as co-chairpersons of the Intra-Departmental Council on Native American Affairs that is established within the Office of the Secretary. It also directs that the co chairpersons shall advise the Secretary on all matters affecting Native Americans that involve the Department.

Section 1(b) continues the authorization of \$8,000,000 per year for grants to improve tribal regulation of environmental quality and such sums as are necessary for the other grant programs. The

requirement that 90 percent of the funds made available for this title in any fiscal year shall be expended for financial assistance to public and nonprofit agencies is also continued. Authorization for appropriations is provided from 2005 through 2009.

Section 1(c) amends the current annual reporting requirement for the Secretary of the Department of Health and Human Services to require a report every five years.

LEGISLATIVE HISTORY

S. 2436 was introduced by Senator Inouye on May 8, 2004, and was referred to the Committee on Indian Affairs. The Committee held a legislative hearing on S. 2436 on June 8, 2004.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Committee on Indian Affairs, on June 16, 2004, in an open business meeting, by a unanimous vote, voted to report S. 2436 as amended to the full Senate with recommendation that it do pass.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 2436 as calculated by the Congressional Budget Office, is set forth below:

S. 2436—A bill to reauthorize the Native American Programs Act of 1974

Summary: S. 2436 would reauthorize appropriations for the Native Americans Programs Act of 1974 through 2009. The programs were authorized for 2004 by the Consolidated Appropriations Act, 2004 (Public Law 108–199).

CBO estimates that authorizations under the bill would total \$51 million in 2005 and \$260 million over the 2005–2009 period, assuming that annual funding is adjusted for inflation when specific annual authorizations are not provided. (Without such inflation adjustments, the authorizations would total \$251 million over the 2005–2009 period.) CBO estimates that appropriations of the authorized levels would result in additional outlays of \$182 million over the 2005–2009 period, if inflation adjustments are included (and about \$177 million without inflation adjustments). The bill would not affect direct spending or revenues.

S. 2436 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2436 is shown in the following table. The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority ¹	45	0	0	0	0	0
Estimated outlays	43	39	13	4	0	0
Proposed changes:						
Environmental quality grants:						
Authorization level	0	8	8	8	8	8

	By fiscal year, in million\$ of dollars—					
	2004	2005	2006	2007	2008	2009
Estimated outlays	0	1	5	7	7	8
Other Native American programs:						
Estimated authorization level	0	43	43	44	45	46
Estimated outlays	0	4	29	38	41	42
Total proposed changes:						
Estimated authorization level	0	51	51	52	53	54
Estimated outlays	0	5	34	45	48	50
Total spending under S. 2436:						
Budget authority/authorization level ¹	45	51	51	52	53	54
Estimated outlays	43	44	47	49	50	50

¹ The 2004 level is the amount appropriated for that year for the Native American programs.

Basis of estimate: S. 2436 would reauthorize programs created under the Native American Program Act of 1974. The program for grants to improve tribal regulation of environmental quality would be reauthorized at \$8 million annually for 2005–2009. The other programs would be reauthorized at such sums as may be necessary for 2005 through 2009; CBO’s estimate of the authorized level for each of those programs is the appropriated amount for 2004 inflated in later years. The estimated outlays reflect CBO’s current assumptions about spending patterns in the authorized programs.

Grants for environmental quality

The bill would reauthorize a program that provides matching grants to tribal governments to help them plan, design, and implement efforts to improve the capability of the governments to attain standards of environmental quality. S. 2436 would authorize appropriations of \$8 million annually through 2009 for the training and education of employees, the development of tribal laws on environmental quality, and the enforcement and monitoring of those laws. These activities received \$3 million in funding for 2004. If the authorized amounts are appropriated, outlays would increase by \$28 million over the five-year period.

Other Native American programs

S. 2436 would authorize the appropriation of such sums as may be necessary for projects, training and services that support at-risk youth, elderly, or disabled Native Americans, promote the development of a private-sector economy, and support native languages. About \$42 million of the total funding for Native American programs has been allocated for these activities in 2004. Adjusting the 2004 funding for inflation, the bill would authorize appropriations of \$220 million over the 2005–2009 period, which would result in \$154 million in outlays.

Intergovernmental and private-sector impact: S. 2436 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit Indian tribes.

Estimate prepared by: Federal Costs: Paul Cullinan. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Selena Caldera.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive branch of government on S. 2436.

REGULATORY AND PAPERWORK IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 2436 will have a minimal impact on regulatory or paperwork requirements. In fact, because the report requirement in this bill is changed from an annual report to a report to be submitted every five years, the paperwork requirement is decreased.

CHANGES IN EXISTING LAW

UNITED STATES CODE ANNOTATED

TITLE 42. THE PUBLIC HEALTH AND WELFARE

CHAPTER 34—ECONOMIC OPPORTUNITY PROGRAM

§ 2991b–2(d) Intra-Departmental Council on Native American Affairs

(1) **[**There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that involve the Department. The Director of the Indian Health Service shall serve as vice chairperson of the Council.**]** *There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner and the Director of the Indian Health Service shall serve as co-chairpersons of the Council. The co-chairpersons shall advise the Secretary on all matters affecting Native Americans that involve the Department.*

§ 2992d. Authorization of appropriations

[(a) There are authorized to be appropriated for the purpose of carrying out the provisions of this subchapter (other than sections 2991b(d), 2991b–1, 2991b–3 of this title, subsection (e) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations), such sums as may be necessary for each of fiscal years 1999 2000, 2001, and 2002.**]**

(a) *IN GENERAL.—There are authorized to be appropriated—*

(1) to carry out section 803(d), \$8,000,000 for each of fiscal years 2005 through 2009; and

(2) to carry out provisions of this title other than section 803(d) and any other provision having an express authorization of appropriations, such sums as are necessary for each of fiscal years 2005 through 2009.

[(b) Not less than 90 per centum of the funds made available to carry out the provisions of this subchapter (other than sections 2991b(d), 2991b–1, 2991b–3, 2991c of this title, subsection (e) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations) for a fiscal year

shall be expended to carry out section 2991b(a) of this title for such fiscal year.】

(b) *LIMITATION.*—*Not less than 90 percent of the funds made available to carry out this title for a fiscal year (other than funds made available to carry out sections 803(d), 803A, 803C, and 804, and any other provision of this title having an express authorization of appropriations) shall be expended to carry out section 803(a).*

【(c) There is authorized to be appropriated \$8,000,000 for each of fiscal years 1999, 2000, 2001, and 2002, for the purpose of carrying out the provisions of section 2991b(d) of this title.】

【(d)】 (c)(1) For fiscal year 1994, there are authorized to be appropriated such sums as may be necessary for the purpose of—

(A) establishing demonstration projects to conduct research related to Native American studies and Indian policy development; and

(B) continuing the development of a detailed plan, based in part on the results of the projects, for the establishment of a National Center for Native American Studies and Indian Policy Development.

(2) Such a plan shall be delivered to the Congress not later than 30 days after September 30, 1992.

【(e) There are authorized to be appropriated to carry out section 2991b–3 of this title such sums as maybe necessary for each of fiscal years 1999, 2000, 2001, and 2002.】

§ 2992–1. [Annual report]

SEC. 811A. REPORTS.

【The Secretary shall, not later than January 31 of each year】
Every 5 years, the Secretary shall prepare and transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives 【an annual report】 *a report* on the social and economic conditions of American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives, together with such recommendations to Congress as the Secretary considers to be appropriate.