WATCHING THE 115TH CONGRESS

SELECTED BILLS OF INTEREST IN INDIAN COUNTRY

Updated: July 10, 2017

Note: Unless otherwise indicated, “Committee” in the Senate means the Senate Committee on Indian Affairs. “Sub-committee” in the House means the Committee on Natural Resources, Subcommittee on Indian, Insular and Alaska Native Affairs. Bills and notes titled in red italics are new to the list this month.

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TRIBAL GOVERNANCE AND TRUST RESPONSIBILITIES

H.R. 215 – American Indian Empowerment Act – introduced by Rep. Don Young on January 3, would empower federally recognized tribes to accept the direct ownership of tribal lands. The bill includes provisions that continue restrictions against taxation and “alienation” (such as sale, trade, or encumbering with debt). The bill specifies that a land transfer to a tribe does not diminish the federal trust responsibility to the tribe.

S. 63, H.R. 986 – Tribal Labor Sovereignty Act of 2017 – The Senate bill was introduced by Senator Jerry Moran (KS) on January 9 and the House bill was introduced by Rep. Rokita (IN-4) on February 9. This bill exempts recognized tribal governments from the authority of the National Labor Relations Act. In so doing the bill would put tribal governments on the same footing as other government employers, including national, state and local entities. The Senate bill was approved by the Senate Committee on Feb. 8, and is ready to be scheduled for consideration on the Senate floor, and the House bill was approved by the House Committee on Education and the Workforce on June 22. As a matter of tribal sovereignty, FCNL supports.
Tribal Recognition and Taking Land into Trust (Carcieri* Remedies)

S. 39 – Little Shell Tribe of Chippewa Indians Restoration Act of 2017. This bill was reintroduced by Senator Jon Tester (MT) on January 5. This band is a political successor to signers of the Pembina Treaty in 1863, which ceded a larger area of land in North Dakota to the United States. Since that time, other bands that are also political successors to the treaty have been recognized by the U.S. government, while members of the Little Shell band have continued to live and maintain a separate community in Montana, without an allocation of trust lands. Their current application for recognition was filed with the Bureau of Indian Affairs in 1978; since then the tribe has been awaiting a decision. The bill was approved by the Senate Committee on May 22 and is ready for consideration on the Senate floor.

FCNL supports.

H.R. 130 and H.R. 131 – [Carcieri remedies] Rep. Cole (OK-4) introduced H.R. 130 and H.R. 131 to counter the Supreme Court’s 2009 decision in Carcieri v. Salazar. * H.R. 130 affirms the authority of the Secretary of the Interior to take lands into trust for the benefit of Indian tribes. H.R. 131 reaffirms the trust status of lands that have already been taken into trust for the benefit of tribes that were federally recognized at the time when the trust was established, even if that date fell after the 1934 Act. Similar bills were also introduced in the 114th Congress.

FCNL supports.

(*Carcieri v. Salazar is a Supreme Court case decided in 2009. The Court held that the federal government did not have authority to take Indian lands into trust for any tribes that were not recognized before 1934, the effective date of the Indian Reorganization Act. The impact of the decision has clouded the status of a lot Indian land, effectively hobbling economic development much of in Indian country.)

H.R. 984 – Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017. This bill, similar to Senate and House legislation of the last Congress, was introduced on February 7 by Rep. Robert Wittman (VA). Senator Tom Kaine introduced a companion bill (S.691) in the Senate on March 21. It would extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe in Virginia. All of the tribes have been in Virginia since first contact with Europeans in the early 1600s, and all have maintained continuous identity, in spite of the loss of land and homes. All of these tribes were recognized by the Commonwealth of Virginia in the 1980s. H.R. 984 passed the House on May 17th, and was referred to the Senate. The Senate Committee approved S. 691 on the same day. The bill is now ready for consideration on the Senate floor.

FCNL supports.

H.R. 1455 – Clatsop-Nehalem Restoration Act was introduced by Rep. Susan Bonamici on March 9. The bill we restore the recognized status of the Clatsop-Nehalem Confederated Tribes of Oregon, which were among more than 100 tribes summarily terminated in the 1950s. The bill reconstitutes a tribal
government, identifies a process to certify membership, and authorizes federal benefits for the tribes. The bill does not restore any land to the tribe, or authorize taking any lands into trust.  

**FCNL supports.**

**H.R. 2352/S. 1047 – Lumbee Recognition Act** was introduced by Representative Robert Pittenger and Senator Richard Burr of North Carolina on May 4, 2017 and was referred to the House Subcommittee and the Senate Committee respectively. Similar bills have been introduced in previous congressional sessions.  

**FCNL supports.**

**Cultural Preservation and Religious Freedom**

**S. 254 – Esther Martinez Native American Language Preservation Act** was reintroduced on February 1 by Senator Tom Udall (NM) to reauthorize the native language recovery and education programs covered by the Act. The Committee approved the bill on February 8, and was placed on the Senate Calendar on April 8, and now awaits Senate floor action. In the House, Representative Ben Lujan introduced an identical bill, H.R. 1169. The House bill has been referred to the Committee on Education and the Workforce, with no action taken yet.  

**FCNL supports.**

**Land, Environment and Resources**

**S. 245 – Indian Tribal Energy Development and Self Determination Act of 2017.** Senator John Hoeven (ND) introduced the bill on January 30. The bill amends the Energy Policy Act of 1992, adding language specific to tribal consultation, regulation of Indian tribal energy resources and authorizations for specific programs and permits relating to biomass, weatherization, and leases of tribal land (Crow, Navajo) for energy development. It was approved by the Senate Committee on February 8 and is ready for consideration on the Senate floor.

**H.R. 210 – Native American Energy Act.** This bill was introduced on January 3 by Rep. Don Young (AL-1), and is similar to bills he introduced in the last three congressional sessions. It would reduce or remove federal regulatory restrictions (relating to appraisals, environmental protection rules, and standards for judicial review) that would impede development of tribal lands. The bill also includes demonstration projects on trial forest and resource management, and biomass development. (No action yet.)

**H.R. 23 – Gaining Responsibility on Water” or GROW Act.** Representative Valadao (CA-21) and several California co-sponsors introduced this bill to establish a structure of collaboration and consultation among federal, state, local, and tribal governments to deal with scarcity of water in the Central Valley and Southern California. The language of the bill affirms that “nothing in this title limits or expands any water right or treaty right of any federally recognized Indian tribe.” However, some of the state permits required of tribes that hold water rights protected by treaties with the federal government may be seen as infringements on sovereignty.
S. 483 and H.R. 1285 – the Wild Olympics Wilderness and Wild and Scenic Rivers Act of 2017, were introduced on March 13 by Senator Patty Murray (WA) and Representative Kilmer (WA-6), respectively. Acknowledging that the Olympic peninsula is home to eight federally recognized Indian tribes and the leadership role that tribes and tribal organizations play in supporting the habitat of salmon and other fish, the bill designates 19 rivers as wild and scenic rivers, and specifies wilderness areas on the Olympic peninsula. These designations would protect these fragile areas and resources from incursions that are incompatible with the support of the ecosystem. The Senate bill was referred to the Committee on Energy and Natural Resources. The House bill was referred to the Natural Resources Committee.

S. 728, S. 738 and H.R. 1731, all named the “RECLAIM Act of 2017” would provide resources to states and Indian tribes to “promote economic revitalization, diversification, and development in economically distressed mining communities through the reclamation and restoration of land and water resources adversely affected by coal mining carried out before August 3, 1977.” Of the thousands of abandoned mines, like the one that precipitated the “Gold King Mine disaster,” many are located on or near Indian lands, occupying areas that cannot be put to other uses without restoring the mining sites and making them safe. The Senate bills were introduced by Senator McConnell (KY) (majority leader of the Senate), Senator Manchin (WV) – S. 728 and 738 respectively – on March 27 and were referred to the Energy and Natural Resources Committee. The bills are related, but not identical. Representative Harold Rogers (KY-5) introduced the House bill on April 5 and it was referred to the Natural Resources committee, subcommittee on Transportation and Infrastructure. The House bill is identical to Senator McConnell’s bill, S. 728.

**FEDERAL BUDGET**

H.R. 212 – the EFFECT Act – was introduced by Rep. Don Young on January 3. It would allow for an expedited review in Congress of a contracting Indian tribe’s funding agreement, at the tribe’s request.

H.R. 292 – Honor Our Trust Relationships Act. Rep. Young (AK) reintroduced this bill to exempt Alaska Native and American Indian programs from sequestration that could be required under the Balanced Budget and Emergency Deficit Control Act of 1985. Sequestration is an automatic across-the-board spending reduction that permanently cancels spending authority according to a formula in order to enforce deficit reduction goals. A similar bill was also introduced in the 114th Congress. FCNL supports.

**ECONOMIC DEVELOPMENT AND EMPLOYMENT**

S. 91 and H.R. 228 – Indian Employment, Training and Related Services Consolidation Act of 2017. Sen. Murkowski (AK) and Rep. Young (AK-0) have reintroduced two versions of a bill to reauthorize the Indian Employment, Training and Related Services Act. This program, enacted in 1992, provides grants to tribes to support tribal jobs and job training programs. H.R. 228 passed the House on February 27. The Senate Committee on Indian Affairs reported out the bill on April 6. Details are included in a
The bill has been cleared to be on the “suspension calendar” in the Senate. FCNL supports.

**S. 302 – The John P. Smith Act** (also called the Tribal Infrastructure and Roads Enhancement and Safety Act or “TIRES” Act) was introduced by former Chairman John Barrasso (WY) on February 3. The bill addresses bureaucratic procedures and criteria for awarding assistance for tribal transportation safety projects. The Committee approved the bill on February 8 and it is now ready to be scheduled for consideration on the Senate floor.

**S. 607 – Native American Business Incubators Program** was introduced on March 13 by Senator Tom Udall (NM), Jon Tester (MT) and Cantwell (WA); similar legislation was considered near the end of the last session of Congress. The program would provide technical assistance, workspace, mentoring and networking opportunities to new and established entrepreneurs in reservation communities. On March 29, the Senate Committee approved the bill by unanimous vote; it is now ready to be scheduled for consideration on the Senate floor. FCNL supports.

**S. 1116 – Indian Economic Enhancement Act of 2017** was introduced on May 11 by Senator John Hoeven. The bill amends several current laws to facilitate and support tribally-driven economic development. It was approved by the Senate Committee on Indian Affairs on May 17 and is now ready to be scheduled for consideration on the Senate floor.

**S. 1275 – Bringing Useful Initiatives for Indian Land Development or “BUILD” Act (new name)...** was introduced by Senator John Hoeven on May 25 and was referred to the Senate Committee, which held a hearing on the bill on June 13. Generally, the bill extends the concepts of the HEARTH Act, to allow tribes to take on environmental review functions for projects supported by investments from multiple sources, where the federal source is the largest piece. The bill also authorizes loan guarantees for Indian housing through 2025, and provides for training and technical assistance for tribes and tribal housing entities. Certain 50-year land leases are extended to 99 years leases. The bill specifies that grants received through the Native American Housing Assistance and Self-Determination Act of 1996 may be used to provide matching costs for participation in other federal or non-federal programs.

**H.R. 1581 – Tribal Digital Access Act** was introduced by Representative Raul Ruiz (CA-36) on March 16. The bill would address the “internet gap” in Indian country by amending the section of the Communications Act that requires common carriers to provide universal service, including in rural, low income and high cost areas. The bill would add specific references to Indian Country and to areas with high populations of Indian people. The bill was referred to the Energy and Commerce Committee, subcommittee on Communications and Technology.

**EDUCATION**

**S. 458 – Native Educator Support and Training Act (NEST)** was introduced by Senator Jon Tester on February 27. The bill provides scholarships for educators of Indian students and Indian educators in
exchange for teaching Native children in an eligible school. For each year of scholarship assistance, the participant commits to one year of employment in the school. The committee approved a substitute version of the bill on May 17 and it is now ready for to be scheduled for consideration on the Senate floor. FCNL supports.

**S. 660 and H.R. 1528 – Native American Indian Education Act** introduced in the Senate by Senator Cory Gardner (CO) and in the House by Rep. Scott Tipton (CO-3) on March 15, would authorize $17 million dollars in each of the next five years to reimburse states for extending tuition-free education in the state’s land-grant colleges to Native American students, including those who are out-of-state residents. A similar bill was introduced in the 113th and 114th congressional sessions. FCNL supports.

**S. 943 – Johnson-O’Malley Supplemental Indian Education Program Modernization Act** – calling for a comprehensive count of students served, was introduced on April 27 by Senator Heidi Heitkamp. A similar bill was introduced in the 114th Congress. The bill is scheduled for a hearing in the Senate Committee on July 12.

**S. 1294 – A Bill to Expand [Education] Opportunity for Native American Children** was introduced on June 6 by Senator John McCain and was approved by the Senate Committee.

### CHILDREN AND YOUTH

**H.R. 1650 National Adoption and Foster Care Home Study Act** was introduced by Representative Huffman (CA-02) with Representatives Karen Bass (CA-37) and Steven Russell (OK-5) on March 21. The bill would establish a national comprehensive assessment process for use by states and tribes. The bill would authorize grants to states and tribes that elect to participate in a demonstration project. Those participating would have to adopt the nationally approved methodology and agree to accept the assessment of other states or tribes as to the suitability of potential adopting or foster parents. The bill allows for variations to conform to local tribal or state laws, but does not mention the requirements of the Indian Child Welfare Act. An identical bill, **S. 684**, was introduced in the Senate on the same day by Senator Gillibrand (NY) and was referred to the Committee on Health, Education, Labor and Pensions.

**S. 876 Tribal Adoption Parity Act** was introduced by Senator Heitkamp with a bi-partisan group of six co-sponsors on April 6. The bill would permit tribal governments to determine whether a child being adopted within a tribe is a “special needs” child, within the meaning of the Internal Revenue Code section that provides a tax credit for these adoptions. The bill has been referred to the Committee on Finance. A nearly identical bill, **H.R. 2035**, was introduced on the same day by Representative Kilmer (WA-6). The House bill was referred to the Committee on Ways and Means. Similar bills were introduced in the 114th Congress.

### HEALTH CARE
**H.R. 235 to authorize advance appropriations for the Indian Health Service** was introduced by Congressman Young on January 3. This would allow the Indian Health Service to have reasonable notice of available funds, so that they can staff their health centers hospitals on a timely and orderly basis. The bill was referred to the House Subcommittee and to the Energy and Commerce Committee. A similar bill was also introduced in the 114th Congress.  

**FCNL supports.**

**S. 43 and H.R. 1476, the Native American Health Savings Improvement Act** was introduced on January 5 in the Senate by Senator Dean Heller (NV) and on March 9 in the House by Representative John Moolenaar (MI) introduced to allow Native Americans who are eligible for Indian Health Services to participate in Health Savings Plans. Similar bills were also introduced in the 114th Congress.

**S. 304 – Tribal Veterans Health Care Enhancement Act** was introduced by Senator John Thune (SD) on February 7. The bill would allow the Indian Health Service to cover the cost of a copayment charged to and Indian or Alaska Native veteran who receives care through a VA facility. In the 114th Congress, the Senate Committee had approved a similar bill. On March 29, the Senate Committee approved it again by unanimous vote; it is now ready for consideration on the Senate floor.  

**FCNL supports.**

**S. 747 – Special Diabetes Program for Indians (SDPI) Reauthorization.** This bill, introduced on March 28 by Senator Udall, would re-authorize the SDPI for seven years. The program, which includes preventive measures and close monitoring on diabetic patients, has a record of proven effectiveness over the past several years. Seven years would be the longest authorization permitted for the program to date. The bill was referred to the Senate Committee on Health, Education, Labor and Pensions. A similar bill was introduced in the House (H.R. 2545) on May 18 by Representative Norma Torres; it was referred to the Committee on Energy and Commerce.  

**FCNL supports.**

**S. 1250 –Restoring Accountability in the Indian Health Service Act of 2017 (new name)** was introduced by Senator John Barrasso on May 25 and was referred to the Senate Committee, where a hearing was held on June 13. An identical bill, H.R. 2662, was introduced in the House on May 25; a hearing in the Subcommittee was held on June 21. The bills provide for standards, improved hiring practices and other accountability measures. Tribal witnesses urged specific consultation with tribes on the bills’ provisions.

**H.R. 465 – Independent Outside Audit of the Indian Health Service Act of 2017** was introduced by Senator Mike Rounds (SD) on February 28. It would require the Secretary of Health and Human Services to engage a private auditing firm “to conduct an independent assessment of the health care delivery systems and financial management processes of the Service.”

**H.R. 981 – Indian Health Service Hiring Freeze Exemption Act** was introduced on February 7 by Representative Norma Torres (CA) on February 7. The bill would allow the IHS to continue to hire staff, regardless of the President’s January 23 order to prohibit federal agencies from hiring new or replacement staff.  

**FCNL supports.**

**H.R. 1369 – Indian Health Care Improvement Act Reauthorization and Amendments.** On March 6, Rep. Tom Cole (OK) introduced this 250-page bill, which appears to be very similar to the Indian Health Care
Improvement Act approved by the Senate in 2009, and incorporated by reference in the Affordable Care Act (ACA). The current IHCIA is permanently authorized but, because of the way the ACA is written, the exact provisions of the IHCIA do not appear on the statute books. H.R. 1369 would assure that it does.

**JUSTICE AND INDIGENOUS RIGHTS**

**H. Res. 222 – Supporting the National Day of Awareness for Missing and Murdered Native Women and Girls.** This resolution, introduced on March 23 by Representative Chaffetz (UT) and a bipartisan group of four co-sponsors, calls on Congress to acknowledge that homicide is the third leading cause of death among American Indian and Alaska Native Women between the ages of 10 and 24, and that there is very little data on the number of missing girls and women from those communities. May 5 is designated as a day of remembrance.

**S. 343 – RESPECT Act** was introduced by Senators Rounds on February 8. The bill, similar to one introduced in the 114th Congress, would repeal 11 obsolete provisions relating to Indians. These include laws that deny food aid to families who decline to send their children to boarding schools, and a prohibition against any Indian holding any “captives” other than Indians. On March 29, the Senate Committee approved the bill by unanimous vote; it is now ready for consideration on the Senate floor. FCNL supports.

**S. 772, H.R. 2666 and H.R. 3147 – AMBER Alert in Indian Country Act of 2017** was introduced by Senator McCain in the Senate on March 29, and was approved by the Senate Committee on June 13. H.R. 2666 (of the same name) was introduced in the House by Representative Biggs (AZ-5) on May 25, and H.R. 3147 (“To amend the PROTECT Act to make Indian tribes eligible for AMBER Alert grants”) was introduced by Representative Noem (SD-AL) on June 29. The texts of S. 772 and H.R. 2666 are identical; text for H.R. 3147 is not yet available.

**SELECTED BILLS PRIMARILY AFFECTING INDIVIDUAL TRIBES**

(A number of bills are introduced each session that affect primarily a single tribe or a few named tribes and we do not attempt to track all of them. We do track a few, however, that may have national significance, or may establish precedent for other legislative solutions that “right the wrongs” that interlace our shared history.)

**S. 381 and H.R. 1074 – [reclaiming tribal criminal jurisdiction]** was introduced in the Senate by Senator Charles Grassley (IA) on February 14 and by Representative Rod Blum (IA-1) on February 15. It would repeal a 1948 law which had transferred criminal jurisdiction to the state of Iowa over crimes committed by or against Indians on the Sac and Fox reservation. The Senate Committee approved S.381 by
unanimous vote on March 29. **H.R. 1074 was considered in the House Subcommittee on June 7.**  
**FCNL supports.**

**S. 508 and H.R. 1306 – Western Oregon Tribal Fairness Act** was introduced in the Senate by Senator Tom Wyden (OR) and in the House by Rep. Peter DeFazio (OR-4) on March 2. A similar bill had passed the House in the last Congress, but stalled in the Senate. The bill would authorize taking lands into trust for the benefit of the Cow Creek Umpqua, the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians and would specify that the Coquille Forest will be under the management of the Department of the Interior. The Senate Committee on Energy approved the Senate bill and it is ready for consideration on the Senate floor. The House (full) Committee on Natural Resources approved H.R. 1306, and it is scheduled for action on the House floor on July 11. **FCNL supports.**

**S. 669 and H.R. 1630 – Columbia River In-Lieu and Treaty Fishing Access Sites Improvement Act,** were introduced in the Senate by Senator Jeff Merkley (OR) with Senators Ron Wyden (OR), Patty Murray (WA) and Maria Cantwell (WA) on March 21, and in the House by Representatives Blumenauer (OR-3) and Bonamici (OR-1) on March 20. The bills would authorize the Bureau of Indian Affairs to assess the safety and sanitation of facilities that were built decades ago to provide Columbia River Treaty tribes with access to traditional fishing grounds, after dams constructed on the Columbia River flooded out other fishing grounds. The bills also authorize the Bureau to contract with Indian tribes or other agencies to construct adequate facilities as promised in previous legislation in 1945 and 1987. The tribes affected are the Nez Perce Tribe, the Confederated Tribes of Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakama Nation. On March 29, the Senate Committee approved its bill by unanimous vote. It is now ready to be scheduled for consideration on the Senate floor. H.R. 1630 has been referred to the Subcommittee and there has been no further action. **FCNL supports.**

**H.R. 1491 – Santa Ynez Band of Chumash Mission Indians.** This bill, introduced by Rep. Doug LaMalfa (CA-01), chair of the House Subcommittee, would reaffirm the decision of Secretary of the Interior to take land into trust for the benefit of the tribe. A similar bill was on the House calendar for a floor vote in the last Congress, but the vote never occurred. This bill has been referred to the Committee on Natural Resources.

**S. 995 – Compensation to Spokane Tribe for the use of tribal land for Grand Coulee Dam** – introduced by Senator Maria Cantwell on May 1.