



2120 L Street, NW, Suite 700  
Washington, DC 20037

T 202.822.8282  
F 202.296.8834

HOBBSSTRAUS.COM

April 10, 2019

## GENERAL MEMORANDUM 19-007

### FY 2019 Indian Affairs Enacted

In this Memorandum we report on final FY 2019 appropriations for Indian Affairs (which includes the Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE) and related accounts), as well as a few other selected programs, as enacted in Division E of the Consolidated Appropriations Act, 2019 (Act), Public law 116-6. The Act was signed four and a half months into fiscal year 2019 following several Continuing Resolutions which had provided funding at FY 2018 levels and a 35-day partial government shutdown during which no funding was provided for those agencies which did not yet have an enacted appropriations bill. The Explanatory Statement accompanying the Act provides that House Committee Report 115-765 and Senate Committee Report 115-276 apply unless changed by the Explanatory Statement. We attach the budget charts from p. 781-787 of the Explanatory Statement.

We reported on the Administration's proposed FY 2019 Indian Affairs budget compared with the House and Senate recommendations in our General Memorandum 18-032 of August 16, 2018.

### INDIAN AFFAIRS (IA) OVERVIEW

For FY 2019 Congress provided \$3 billion for Indian Affairs--\$17.4 million above the FY 2018 enacted amount and a stark contrast to the \$2.4 billion requested by the Trump Administration. The enacted amounts for FYs 2018 and 2019 reflect a broad two-year deal reached by Congress to readjust the spending caps for FYs 2018 and 2019 for both domestic discretionary and defense discretionary accounts.

Congress rejected the Trump Administration's request for overall lower spending levels as well as the zeroing out of many programs, including much of the funding associated with the Tiwahe Initiative. Generally for FY 2019, Congress provided funding levels similar to FY 2018 (with increases for fixed costs) and some additional, targeted increases.

The House Report explains:

All subactivities and program elements presented in the budget estimate submitted to the Congress are continued at fiscal year 2018 enacted levels and adjusted for requested fixed costs and transfers. None of the requested program changes are agreed to unless specifically addressed below.

The Senate Report also reminds the Administration of previously requested information, which remains outstanding:

... budget reductions proposed in the request are not included in the recommendation. Other budget reductions proposed in the request are not included in the recommendation. The Committee has included fixed costs and internal transfers as proposed along with the following instructions.

The Committee would like to remind the Bureau of the importance of meeting reporting requirements and notes that the Bureau has not submitted reports as directed over the last several fiscal years. The Committee directs the formation of these reports in order to help determine funding levels for programs; therefore, if the Bureau cannot produce information as requested, the Committee may not be able to properly evaluate programs and future funding levels may be impacted.

The addition of many Bureau programs to the Government Accountability Office's [GAO] 2018 high risk list (GAO-17-317) indicate there are several challenges to overcome in order to improve the Federal management of programs that serve Tribes and their members. The Committee stands ready to work with the Bureaus to implement the GAO recommendations and strongly encourages the Bureau to make these necessary changes.

In keeping with prior years, the following statement of values is included in the House Report:

The Bureau of Indian Affairs, Bureau of Indian Education, and Office of the Assistant Secretary—Indian Affairs (together, "Indian Affairs") programs serve 573 federally recognized Indian Tribes, a service population of approximately two million American Indians and Alaska Natives in Tribal and Native communities. The Bureau of Indian Affairs provides direct services and funding for compacts and contracts for Tribes to provide Federal programs for a wide range of activities necessary for community development. Programs address Tribal government, natural resource management, trust services, law enforcement, economic development, and social service needs. The Bureau of Indian Education manages a school system with 169 elementary and secondary schools and 14 dormitories providing educational services to 47,000 individual students, with an Average Daily Membership of 41,000 students in 23 States. The BIE also operates two post-secondary schools and administers grants for 29 Tribally controlled colleges and universities and two Tribal technical colleges. In preparation for the fiscal year 2019 appropriation bill, the Subcommittee held two days of hearings and received testimony from over 80 witnesses on a variety of topics pertaining to American Indian and Alaska Native programs. **The Federal government has a legal and moral obligation to provide quality services to American Indians and Alaska Natives. On a nonpartisan basis, the Committee continues to protect and, where possible, strengthen the budgets for Indian Country programs in this bill in order to address longstanding and underfunded needs** [emphasis added].

*Department of Interior Reorganization.* For FY 2019, to comply with President Trump's Executive Order 13781 on a *Comprehensive Plan for Reorganizing the Executive Branch*, each federal agency is creating a reorganization plan. See our General

Memorandum 17-025 of April 14, 2017. The Department of Interior is planning to reorganize around common regional boundaries to "enhance coordination of resource decisions and policies and simplify how citizens engage with the Department" but due to substantial pushback from tribes, they will leave the boundaries for Indian Affairs intact. Many tribes expressed concern about the proposed Reorganization—both in terms of the structure of the proposed Reorganization as well as the level of consultation with tribes. One concern about the proposal to align offices along regional boundaries and push more decisions to the regional level is that tribes interact with other bureaus and offices in the Department of Interior beyond Indian Affairs so it might not be easy for tribes to simply "opt out." The details of Congress's directions for the Reorganization are found under the OFFICE OF THE SECRETARY—DEPARTMENTAL OPERATIONS section of this report.

*Public Lands Infrastructure Initiative.* For FY 2019, the Administration proposed the creation of a new Public Lands Infrastructure Fund (Fund) to "address repairs and improvements in national parks, national wildlife refuges, and Bureau of Indian Education-funded schools." However, in order for the Fund to accrue a balance that can be spent on these projects, the Administration proposed that 50% of any revenues from energy leasing *above the current FY 2018 baseline* be deposited into the Fund for a period of 10 years, with the total deposits capped at \$18 billion (the other 50% of increased revenues would go to the Treasury to support deficit reduction). The Administration estimated that this would result in \$6.8 billion in expenditures from the Fund over 10 years. On the other hand, the Department of Interior's Royalty Policy Committee is also considering sharply lowering the royalty rate for these energy leases. Thus, there would need to be *substantially* more energy development on public lands in order for the proposed Fund to accrue this estimated amount. Ultimately, Congress did not pass legislation (H.R.6510 - Restore Our Parks and Public Lands Act) introduced by then House Natural Resources Chairman Rep. Bishop (R-UT) to authorize the Fund. Further information about the Administration's request for *regular* appropriations for school maintenance and repair—as well as the response from Congress—is found under the EDUCATION CONSTRUCTION subsection of this report.

### OPERATION OF INDIAN PROGRAMS

FY 2018 Enacted	\$2,411,200,000
FY 2019 Admin. Request	\$2,002,996,000
FY 2019 House	\$2,436,821,000
FY 2019 Senate	\$2,403,890,000
FY 2019 Enacted	\$2,414,577,000

*Operation of Indian Programs* (OIP) budget includes the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE). The Explanatory Statement explains that, "All programs, projects, and activities are maintained at fiscal year 2018 levels, except for requested fixed cost increases and transfers, or unless otherwise specified below." Further the Explanatory Statement says, "Indian Affairs is reminded of the

importance of meeting reporting requirement deadlines so that the Committees can properly evaluate programs. Failure to do so could negatively impact future budgets."

Tribal Priority Allocations (TPA). The House Report affirms the importance of TPA programs:

TPA programs fund basic Tribal services, such as social services, job placement and training, child welfare, natural resources management, and Tribal courts. TPA programs give Tribes the opportunity to further Indian self determination by establishing their own priorities and reallocating Federal funds among programs in this budget category.

### BUREAU OF INDIAN AFFAIRS

FY 2018 Enacted	\$1,496,787,000
FY 2019 Admin. Request	\$1,261,146,000
FY 2019 House	\$1,518,278,000
FY 2019 Senate	\$1,504,232,000
FY 2019 Enacted	\$1,510,020,000

Activities within the *Bureau of Indian Affairs* are: Tribal Government; Human Services; Trust-Natural Resources Management; Trust-Real Estate Services; Public Safety and Justice; Community and Economic Development; and Executive Direction and Administrative Services.

### TRIBAL GOVERNMENT

FY 2018 Enacted	\$317,967,000
FY 2019 Admin. Request	\$291,514,000
FY 2019 House	\$323,438,000
FY 2019 Senate	\$319,973,000
FY 2019 Enacted	\$320,973,000

The *Tribal Government* sub-activities are: Aid to Tribal Government; Consolidated Tribal Government Program; Self-Governance Compacts; New Tribes; Small and Needy Tribes; Road Maintenance; and Tribal Government Program Oversight. (For amounts by sub-activity, see p. 781 of the attachment.)

Congress rejected the Administration's proposed cuts, including the proposal to zero out funding for the *Small and Needy Tribes* sub-activity. For some sub-activities, modest increases are provided.

Consolidated Tribal Government Program. The Senate Report states:

The Committee is concerned about the funding and allocation for the Consolidated Tribal Government Program and has included the fiscal year 2018 enacted level

for this program along with fixed costs. The Committee again requests the Bureau report back to the Committee within 30 days of enactment of this act with a description of the number of Tribes that use this program and how increases for this program compare to others that offer similar services.

*New Tribes.* This sub-activity provides \$160,000 in Tribal Priority Allocation (TPA) base funding per tribe to support newly federally-recognized tribes. Once a tribe has been acknowledged, it remains in this category for three fiscal years. Congress concurred with the Administration's request for \$1,120,000 to provide initial federal support for the six Virginia tribes federally recognized by an Act of Congress in January 2018: the Chickahominy, the Eastern Chickahominy, the Upper Mattaponi, the Rappahannock, the Monacan, and the Nansemond. The Senate Report elaborates that, "the Committee is also aware that new Tribes seeking Tribal recognition are often met with delay. The Committee expects the Bureau to efficiently administer the Tribal recognition process and strongly encourages action on pending requests."

*Road Maintenance.* Congress provided a modest increase to this sub-activity, and specified that of the total provided, \$2 million is "to improve the condition of unpaved roads and bridges used by school buses transporting students" and that, "Funds to implement the Native American Tourism Improvement and Visitor Experience Act of 2016 continue at the fiscal year 2018 enacted level."

The Senate Report once again requests an update on the implementation of the Government Accountability Office's recommendations:

The Committee is concerned about the future funding of the Road Maintenance account, the backlog for deferred maintenance of roads in Indian Country, and the implementation of roads data in the National Tribal Transportation Facility Inventory; therefore, the Committee directs the Bureau to report back to the Committee within 60 days of enactment of this act on how the Bureau plans to allocate the funds provided in the bill and the progress being made to implement the GAO recommendations outlined in the report GAO-17-423. Within the program funding for road maintenance, \$1,000,000 is continued for the implementation of the NATIVE Act of 2016.

**HUMAN SERVICES**

FY 2018 Enacted	\$161,063,000
FY 2019 Admin. Request	\$115,358,000
FY 2019 House	\$161,416,000
FY 2019 Senate	\$161,416,000
FY 2019 Enacted	\$161,416,000

The *Human Services* sub-activities are: Social Services; Welfare Assistance; Indian Child Welfare Act (ICWA); Housing Improvement Program (HIP); Human Services Tribal Design; and Human Services Program Oversight. (For amounts by sub-activity, see p. 782 of the attachment.)

Tiwahe Initiative. Congress once again rejected the Administration's proposed cuts to the individual *Human Services* sub-activities (many of which support the broader Tiwahe Initiative) as well as the Administration's proposal to zero out funding for the Tiwahe Initiative demonstration project and the *Housing Improvement Program* sub-activity.

The House Report provides the following direction:

Funding for the Tiwahe (family) initiative is restored. As originally proposed by the Department and supported by the Congress, fiscal year 2019 is the fifth and final year of the initiative. After the fiscal year has ended, and in consultation with affected Tribes, the Bureau is directed to publish a final report that includes measures of success and guidelines for other Tribes wanting to implement the model with Tribal Priority Allocation funds.

The Senate Report elaborates:

The recommendation includes funding to continue the Tiwahe Initiative at the enacted levels. The Committee believes this initiative is a way to help strengthen Tribal communities by leveraging programs and resources; however, it is important to measure program effectiveness. The Committee directs the Bureau to report back within 90 days of enactment of this act on the performance measures being used to monitor and track the initiative's effectiveness in Indian country. Within the amounts provided for Tiwahe, at least \$300,000 is to be used to support women and children's shelters that are serving the needs of multiple tribes or Alaska native Villages in the areas served by Tiwahe pilot sites. The Committee continues to support the Tiwahe pilot initiative; however, the Committee understands there are significant social service needs in Indian Country. The Committee directs the Bureau to report back within 180 days of enactment of this act on the status of the National Training Center for Indian Services and how this Center will seek to improve social services across Indian Country.

Welfare Assistance. Once again, the Senate Report requests the following information:

The Committee remains concerned about the funding distribution for welfare assistance and directs the Bureau to report back to the Committee upon enactment of this act on how this funding would be distributed.

**TRUST–NATURAL RESOURCES MANAGEMENT**

FY 2018 Enacted	\$204,202,000
FY 2019 Admin. Request	\$153,424,000
FY 2019 House	\$207,370,000
FY 2019 Senate	\$204,870,000
FY 2019 Enacted	\$206,870,000

The *Trust–Natural Resources Management* sub-activities are: Natural Resources, general; Irrigation Operation and Maintenance; Rights Protection Implementation; Tribal Management/Development Programs; Endangered Species; Tribal Climate

Resilience/Cooperative Landscape Conservation; Integrated Resource Information; Agriculture and Range; Forestry; Water Resources; Fish/Wildlife & Parks; and Resource Management Oversight. (For amounts by sub-activity, see p. 782 of the attachment.)

Congress rejected the Administration's proposed cuts, including the Administration's proposal to zero out funding for the *Tribal Climate Resilience/Cooperative Landscape Conservation* sub-activity.

*Pacific Salmon Treaty.* Congress directs the BIA to provide the following report:

The Conferees understand that the Pacific Salmon Commission is close to reaching an agreement to amend Annex IV of the Pacific Salmon Treaty to replace management terms that expire on December 31, 2018; therefore, the Bureau is directed to report back within 90 days of enactment of this Act with a detailed cost estimate of the responsibilities under the Pacific Salmon Treaty and, specifically, Annex IV of the Treaty as proposed to be amended.

*Tribal Management/Development Program, including Cooperative Agreements and Alaska Subsistence.* The Senate Report directs:

Within the amounts, \$12,036,000 is provided for the Tribal Management/Development Program. The recommendation does not include the proposed cuts to the rights protection implementation program or the invasive species program. It is the Committee's understanding the Bureau has entered into cooperative agreements with Ahtna Inter Tribal Resource Commission and the Kuskokwim River Inter-Tribal Fisheries Commission with other organizations interested in establishing similar agreements; therefore, it is the Committee's expectation that within the funding provided, pilot projects and programs for Alaska subsistence will continue.

*Funding Distributions for Tribes East of the Mississippi River.* The Senate Report states:

The Committee recognizes that many Tribes west of the Mississippi River tend to have reservations that are larger in terms of land mass than those east of the Mississippi River and face challenges including drought. However, the Committee expects that Tribes across the country who have resource challenges receive appropriate funding.

*Resource Management Agreements with Tribes.* The Senate Report directs:

The Department of the Interior is expected to promote and expand the use of agreements with Indian Tribes to protect Indian trust resources from catastrophic wildfire, insect and disease infestation, or other threats from adjacent Federal lands, as authorized by law. The Committee directs the Bureau to coordinate with the Office of Wildland Fire to submit a report describing how the Department determines the use of wildfire suppression and rehabilitation resources and prioritizes Indian forest land.

Coastal Tribes. The House Report directs:

The Committee supports the Bureau of Indian Affairs’ efforts to address the needs of coastal Tribal communities by working to address threats to public safety, natural resources, and sacred sites. Consistent with the Federal government’s treaty and trust obligations, the Committee directs the Bureau of Indian Affairs to work with at-risk Tribes to identify and expedite the necessary resources.

Forestry. Congress provided a \$500,000 program increase for forestry Tribal priority allocations.

Fish, Wildlife, and Parks. The House Report directs:

Within the amounts provided for Fish, Wildlife, and Parks, the recommendation continues \$545,000 for substantially producing Tribal hatcheries in BIA’s Northwest Region currently not receiving annual BIA hatchery operations funding. This funding should be allocated in the same manner as in fiscal year 2018 but should be considered base funding in fiscal year 2019 and thereafter.

Elwha River Ecosystem and Fisheries Restoration Act. Congress provided \$1,500,000 to implement section 7(b) of Public Law 102–495, the Elwha River Ecosystem and Fisheries Act, and directed the Bureau "to follow the related guidance contained in House Report 115–765." The House Report directs:

The Committee directs the Secretary, or his designee, to work with the Lower Elwha Klallam Tribe to identify appropriate lands in Clallam County, Washington, to satisfy the requirements of section 7 of the Elwha River Ecosystem and Fisheries Restoration Act (P.L. 102–495).

Tribal Partnerships with USGS. The Senate Report directs:

The Committee continues direction for the Bureau to enter into a formal partnership with local Tribes and the United States Geological Survey to help develop a water quality strategy for transboundary rivers.

**TRUST–REAL ESTATE SERVICES**

FY 2018 Enacted	\$129,841,000
FY 2019 Admin. Request	\$105,484,000
FY 2019 House	\$130,680,000
FY 2019 Senate	\$130,680,000
FY 2019 Enacted	\$130,680,000

The *Trust–Real Estate Services* sub-activities are: Trust Services; Navajo-Hopi Settlement Program; Probate; Land Title and Records Offices; Real Estate Services; Land Records Improvement; Environmental Quality; Alaska Native Programs; Rights Protection; and Trust-Real Estate Services Oversight.

Congress rejected the Administration's proposed cuts, including the proposal to zero out funding for the *Alaska Native Programs* sub-activity and the *Litigation Support/Attorney Fees* program element within the *Rights Protection* sub-activity. Further, Congress specified \$1,500,000 is for rights protection litigation support. The Senate Report explains that the slight overall increase for *Trust-Real Estate Services* is to cover fixed costs and internal transfers.

*Alaska Native Programs.* Not only did Congress reject the Administration's request to zero out the sub-activity, the Senate Report and the Explanatory Statement specify that within the amount provided, there continue to be a program level of \$450,000 for "the certification of historical places and cultural sites, including Alaska Native Claims Settlement Act sites."

*Realty Trust Acquisition Program.* The House Report directs:

The Committee directs the Assistant Secretary for Indian Affairs to identify the funding determined necessary, in collaboration with congressional and agency stakeholders, within the Trust—Real Estate Services budget activity to improve the efficiency of the Realty Trust acquisition program at BIA. The Committee understands that the program has long suffered from shortages of personnel which has resulted in a history of backlogs, slow processing times and has hindered engagement with Tribes and Tribal members.

Furthermore, the Committee understands the program is transitioning to a more automated tracking process and looks forward to more timely and accurate processing and reporting. The Committee expects the Assistant Secretary of Indian Affairs to be in regular communication with the Committee regarding direction or assistance needed until the problems of backlogs and slow processing times have been adequately resolved.

*Abandoned Wells.* The Senate Report, echoing the FY 2018 Joint Explanatory Statement, directs:

The Committee directs the Bureau to conduct an inventory of wells for which BIA is responsible to reclaim, including cost estimates, for submission to the Committee within 90 days of enactment of this act.

*Fee-to-Trust.* The Senate Report states:

The Committee notes the Bureau's ongoing public comment period concerning the revision of fee-to-trust regulations and directs the Bureau to report to the Committee within 30 days of the date of the enactment of this act concerning the status of all pending applications before the Bureau, including detail on tribal consultation undertaken during the revision process.

**PUBLIC SAFETY AND JUSTICE**

FY 2018 Enacted	\$405,520,000
FY 2019 Admin. Request	\$350,131,000
FY 2019 House	\$418,915,000
FY 2019 Senate	\$407,267,000
FY 2019 Enacted	\$411,517,000

The *Public Safety and Justice* sub-activities are: Law Enforcement; Tribal Courts; and Fire Protection. (For amounts by sub-activity, see p. 784-785 of the attachment.)

The Congress rejected the Administration's proposed cuts, including the proposal to zero out *Tribal Justice Support for tribes in PL 280 states* and for the implementation of the *Violence Against Women Act (VAWA)*. Congress specified funding levels for certain program elements as follows:

The agreement provides \$411,517,000 for public safety and justice programs, of which \$1,000,000 is to implement the Native American Graves Protection and Repatriation Act; \$8,250,000 is for patrol officers in areas hit hardest by the opioid epidemic; \$3,033,000 is to reduce recidivism through the Tiwahe initiative; \$2,000,000 is for Tribal detention facility staffing needs, including addressing the needs of newly funded Tribal detention facilities; \$13,000,000 is to address the needs of Tribes affected by Public Law 83-280; and \$2,000,000 is to implement the Violence Against Women Act for both training and specific Tribal court needs.

*Law Enforcement Funding for Restored Tribes.* The Senate Report once again provides the following direction and once again requests following report:

The Committee understands that several Tribes who were terminated and then subsequently restored now face significant challenges in securing law enforcement funding through self-determination contracts. The Bureau is directed to work with affected Tribes to assess their law enforcement needs and submit a report to the Committee within 60 days of enactment of this act that details the amounts necessary to provide sufficient law enforcement capacity for these Tribes.

*Educational and Health-Related Services for Individuals in Tribal Detention Centers Considered Allowable Costs.* The House Report provides the BIA with the following continued direction:

For the purpose of addressing the needs of juveniles in custody at Tribal detention centers operated or administered by the BIA, educational and health-related services to juveniles in custody are allowable costs for detention/corrections program funding. Indian Affairs is urged to provide mental health and substance abuse services when needed by juvenile and adult detainees and convicted prisoners.

Tribal Courts and Tribal Justice Support in PL 280 States. The Senate Report provides the BIA with the following continued direction:

The Committee remains concerned about the Tribal courts needs as identified in the Indian Law and Order Commission’s November 2013 report which notes Federal investment in Tribal justice for Public Law 83–280 States has been more limited than elsewhere in Indian Country. The Committee expects the Bureau to continue to work with Indian Tribes and Tribal organizations to consider options that promote, design, or pilot Tribal court systems for Tribal communities subject to full or partial State jurisdiction under Public Law 83–280.

**COMMUNITY AND ECONOMIC DEVELOPMENT**

FY 2018 Enacted	\$46,447,000
FY 2019 Admin. Request	\$35,826,000
FY 2019 House	\$51,579,000
FY 2019 Senate	\$46,579,000
FY 2019 Enacted	\$47,579,000

The *Community and Economic Development* sub-activities are: Job Placement and Training; Economic Development; Minerals and Mining; and Community Development Oversight.

The Congress rejected all of the Administration's proposed cuts, including the proposal to zero out the elements of the Tiwahe Initiative funded under *Job Placement and Training* sub-activity. The Senate Report states that the Committee "expects the funding for the Tiwahe initiative will continue at enacted levels." The Congress also continued targeted increases to fund implementation of the NATIVE Act and to modernize the National Indian Oil and Gas Management System (NIOGEMS).

Implementation of the NATIVE Act. Congress continued directing \$3.4 million of *Community Development-Central Oversight* funds towards implementation of the Native American Tourism and Improving Visitor Experience Act (NATIVE Act). The House Report explains that this implementation can continue to occur "via cooperative agreements with Tribes or Tribal organizations..."

Minerals and Mining and NIOGEMS. Congress continued directing funds from the *Minerals and Mining* sub-activity to the modernization of oil and gas management (including the National Indian Oil and Gas Management System (NIOGEMS)), providing \$1 million for this effort. The Senate Report requests following report:

The Committee understands the NIOGEMS has been distributed to some Tribes and regional offices and instructs the Bureau to report back within 120 days of enactment of this act on the cost to further expand this system to more reservations and offices.

GAO High Risk Report. The Senate Committee once again requests the following response to the high risk GAO report (GAO-17-317):

The recent GAO high risk report found the Bureau does not properly manage Indian energy resources held in trust and thereby limits opportunities for Tribes and their members to use those resources to create economic benefits in their communities. The Committee requests the Bureau work to make the necessary changes recommended by the GAO report and report back to the Committee outlining any barriers, statutory or regulatory, that prohibit or slow the pace of resource development as well as a status update on the open items that still need to be implemented according to the GAO report.

Office of Indian Energy and Economic Development. Congress provided the following \$1 million program increase and expectations:

A program increase of \$1,000,000 is included for the Office of Indian Energy and Economic Development to provide assistance to Tribes to enhance economic development and improve access to private financing of development projects. The Office should assist with feasibility studies and provide technical assistance to Tribes to establish commercial codes, courts and other business structures. Further, the Office should undertake efforts to build Tribal capacity to lease Tribal lands and manage economic and energy resource development. Finally, the Office should explore opportunities to foster incubators of Tribal-owned and other Native American-owned businesses. The Office is expected to track accomplishments for each of these purposes and to report them annually in its budget justification.

**EXECUTIVE DIRECTION AND ADMINISTRATIVE SERVICES**

FY 2018 Enacted	\$231,747,000
FY 2019 Admin. Request	\$209,409,000
FY 2019 House	\$224,880,000
FY 2019 Senate	\$233,447,000
FY 2019 Enacted	\$230,985,000

The *Executive Direction and Administrative Services* sub-activities are: Assistant Secretary Support; Executive Direction; Administrative Services; Safety and Risk Management; Information Resources Technology; Human Capital Management; Facilities Management; Intra-Governmental Payments; and Rentals.

Congress rejected the Administration's request for cuts and allocated the funding as follows:

- Assistant Secretary Support \$10,155,000
- Executive Direction \$20,251,000
- Administrative Services \$48,019,000

Alcohol Distilleries in Indian Country. On December 11, 2018, legislation was enacted as PL 115-304 to repeal the federal ban on the establishment and operation of alcohol distilleries in Indian Country (see our General Memorandum 18-039). Regarding the law's implementation, the following was included in the Explanatory Statement:

*Tribal Sovereignty.*—It is the Conferees' understanding that the authorizing committees of jurisdiction are actively working to expeditiously address issues raised by 25 U.S.C. section 251. The Bureau is expected to work cooperatively with Tribes and the relevant committees on such efforts.

Health and Safety Inspections at BIE System Facilities. The House Report continues language from FY 2018, directing, "Indian Affairs is directed to complete annual health and safety inspections of all BIE system facilities and to publish quarterly updates on the status of such inspections."

BIE Vacancies. The House Report directs "Human Resources is directed to make filling vacancies within the Bureau of Indian Education its highest priority."

Operating and Law Enforcement Needs for Treaty Fishing Sites on the Columbia River. The Senate Report continues language from FYs 2017 and 2018, once again requesting the following report:

The Committee notes that the Bureau has not yet complied with the fiscal year 2018 directive to provide a report on funding requirements associated with operating and law enforcement needs for congressionally authorized treaty fishing sites on the Columbia River. The Bureau is directed to transmit the report no later than 30 days following enactment of this act. The Bureau is also urged to incorporate unfunded needs for these sites as part of the Bureau's fiscal year 2020 budget.

Implementation of Amendments to the "477" Program. The Senate Report states, "The Committee is concerned the Indian Employment, Training and Related Services Act, as amended, has not been fully implemented. The Bureau shall report back within 60 days of enactment of this act on the status of implementation."

## BUREAU OF INDIAN EDUCATION

FY 2018 Enacted	\$914,413,000
FY 2019 Admin. Request	\$741,850,000
FY 2019 House	\$918,543,000
FY 2019 Senate	\$899,658,000
FY 2019 Enacted	\$904,557,000

The *Bureau of Indian Education* (BIE) category displays funds for the BIE-funded elementary and secondary school systems as well as other education programs

including higher education and scholarships. The Bureau of Indian Education sub-activities are: Elementary and Secondary Programs (Forward Funded); Elementary and Secondary Programs (Non-Forward Funded); Post Secondary Programs (Forward Funded); Post Secondary Programs (Non-Forward Funded); and Education Management.

For FY 2019 Congress rejected the substantial cuts requested by the Administration. For FY 2018, Congress had provided a temporarily increased spending level for the BIE in order to move those remaining tribal colleges which were not on a forward funded schedule to a forward funded schedule. For FY 2019, Congress, rather than letting that temporary increase go (since all the tribal colleges were successfully transitioned) instead retained a portion of that increased spending level but directed it to other areas of the BIE budget.

*Implementation of the BIE Transformation and GAO Recommendations.*

The House Report states:

Consistent with GAO report 13-774, the Secretary is urged to reorganize Indian Affairs so that control and accountability of the BIE system is consolidated within the BIE, to present such reorganization proposal in the next fiscal year budget request, and to submit to the Committees a corresponding updated workforce plan.

The Senate Report states:

The Committee fully supports making the needed reforms to the Bureau of Indian Education [BIE] in order to improve the quality of education offered to address the performance gap of student's education at BIE-funded schools. The first phase of the current reform effort was approved in 2015; however, the Committee has not received any updated information on the next phase nor has the Bureau complied with Committee directives to report on the status of multiple programs as part of the fiscal year 2018 appropriations process.

Over the past 3 years, the GAO has issued several reports (GAO-13-774, GAO-15-121, GAO-17-447, GAO-17-421, and GAO-16-313) outlining management challenges at the Bureau and there are still outstanding open recommendations to address as well as additional issues outlined in the high risk report (GAO-17-317). The Committee is fully supportive of efforts to reform and better the system, but concerns about how the Bureau manages funding, tracks school conditions, and manages the overall school system remain. The Committee stands ready to work with the administration on the appropriate steps forward and directs the Office of the Assistant Secretary-Indian Affairs to report back within 60 days of enactment of this act on the progress made towards implementing all the GAO recommendations and the current status of the reform effort as well as the status of Congressional directives.

*Inter-Agency Coordination to Serve Native Children.* The House and Senate Reports continue language from prior fiscal years urging greater inter-agency coordination in order to better serve Native students:

The House Report states:

The BIE is encouraged to coordinate with the Indian Health Service to integrate preventive dental care and mental health care at schools within the BIE system.

The Senate Report states:

The administration's emphasis on education must be complemented by efforts to improve interagency coordination for the multiplicity of programs that affect the wellbeing of Native children. In addition to education, these include healthcare, social service, child welfare and juvenile justice programs. The Committee encourages the Bureau to work with other relevant Federal, State, local, and Tribal organizations to begin the process of identifying ways to make programs more effective in serving Native Children.

The Bureau, working with the Indian Health Service as appropriate, is also urged to consider integrating school-based preventative health services such as dental care into elementary schools in order to improve health outcomes of Tribal students.

*Bill Language Continuing Limitations on New Schools and the Expansion of Grades, Charter Schools, Satellite Locations and BIE-funded Schools in Alaska.* For FY 2019, Congress continued this limiting language from prior appropriations Acts, including the language modifying the limits on expanded grades first provided in the FY 2018 appropriations Act. The House Report explains the intent of these restrictions and also clarifies how the restrictions on charter schools and satellite locations should be interpreted:

The bill continues language limiting the expansion of grades and schools in the BIE system while allowing for the expansion of additional grades to schools that meet certain criteria. The intent of the language is to prevent already limited funds from being spread further to additional schools and grades. The intent is not to limit Tribal flexibility at existing schools. Nothing in the bill is intended to prohibit a Tribe from converting a Tribally-controlled school already in the BIE system to a charter school in accordance with State and Federal law.

The bill continues language providing the Secretary with the authority to approve satellite locations of existing BIE schools if a Tribe can demonstrate that the establishment of such locations would provide comparable levels of education as are being offered at such existing BIE schools, and would not significantly increase costs to the Federal government. The intent is for this authority to be exercised only in extraordinary circumstances to provide Tribes with additional flexibility regarding where students are educated without compromising how they are educated, and to significantly reduce the hardship and expense of transporting students over long distances, all without unduly increasing costs that would otherwise unfairly come at the expense of other schools in the BIE system.

Elementary and Secondary Programs (Forward Funded)

FY 2018 Enacted	\$579,242,000
FY 2019 Admin. Request	\$511,788,000
FY 2019 House	\$584,368,000
FY 2019 Senate	\$580,681,000
FY 2019 Enacted	\$582,580,000

The *Elementary and Secondary forward funded* sub-activity includes the following program elements: ISEP Formula Funding; ISEP Program Adjustments; Education Program Enhancements; Tribal Education Departments; Student Transportation; Early Childhood Development; and Tribal Grant Support Costs. Funds appropriated for FY 2019 for these programs will become available for obligation on July 1, 2019, for SY 2019-2020. (For amounts by program element, see p. 783 of the attachment.)

Congress rejected the Administration's request for overall cuts and the request to zero out funding for *Tribal Education Departments* and for *Early Childhood Development* (commonly referred to as the FACE program). Congress also provided what is estimated to be full finding for *Tribal Grant Support Costs*.

*ISEP and Language and Culture.* Congress rejected the Administration's request to cut \$24.8 million from *ISEP Formula Funds* and instead provided a \$1.2 million increase. Further, they rejected the requested \$2.8 million cut to *ISEP Program Adjustments*. The Senate Report emphasizes that ISEP funds should be used to enhance access to Native language and culture programs:

The Committee fully supports broadening access to Native language and culture programs, which have been linked to higher academic achievement for Native youth. The Committee expects the Individual Student Equalization Program should continue to enhance access to Native language and culture programs in BIE-funded schools and directs the Bureau to report within 60 days of enactment of this act on how previous funding provided has been and can continue to be used to support these programs.

*Education Program Enhancements and Language Immersion.* Congress rejected the Administration's proposal to cut \$5.9 million from this program element. Further, Congress specified that the \$2 million set-aside for Native language immersion grants is to continue, pursuant to the following directions:

The House Report states:

Prior to distributing these funds, the Bureau shall coordinate with the Department of Education and Department of Health and Human Services to ensure that Bureau investments complement, but do not duplicate, existing language immersion programs.

The Senate Report states:

The Bureau is expected to report within 60 days of enactment of this act regarding the status of fiscal year 2018 funds and the planned distribution of funds in this act.

Student Transportation. Congress rejected Administration's request to cut \$5.4 million from this program element. The Senate once again requests the following report:

The Committee is concerned by the recent Government Accountability Office report (GAO-17-423) on Tribal transportation, which identified potential negative impacts of road conditions on Native student school attendance. The Committee recommends BIE take steps to improve its data collection on the cause of student absences, including data on road and weather conditions, and to report back to the Committee within 120 days of enactment of this act regarding its actions to improve student absence data tracking and analysis.

Elementary and Secondary Programs (Non-Forward Funded)

FY 2018 Enacted	\$141,563,000
FY 2019 Admin. Request	\$114,128,000
FY 2019 House	\$151,972,000
FY 2019 Senate	\$141,972,000
FY 2019 Enacted	\$143,972,000

The *Elementary and Secondary non-forward funded* sub-activity includes the following program elements: Facilities Operations; Facilities Maintenance; Juvenile Detention Center Grants; and Johnson-O'Malley Assistance Grants. (For amounts by program element, see p. 783 of the attachment.)

Facilities. Congress rejected the Administration's request to cut \$6.2 million from the *Facilities Operations* and \$5.8 million from *Facilities Maintenance* program elements. Further, Congress provided a \$2 million increase for *Facilities Operations* to be used as follows:

The Conferees are aware of the Department's efforts to pursue alternative financing options to address the significant need for replacement school construction at Bureau of Indian Education funded schools and have included an increase of \$2,000,000 within Facility Operations to implement a pilot program to meet these needs. Before obligating these funds, the Department shall provide an expenditure plan for these funds to the Committees that includes details regarding how these funds will be used in fiscal year 2019, potential out-year impacts and demand for the program, and additional recommendations for legislative authority or other considerations for future program management.

Juvenile Detention Center Grants. In FY 2016, Congress initiated this grant program to meet the education and health-related needs of Native youth detained or

incarcerated in currently operating, BIA-funded, juvenile detention centers for an extended period of time. Congress rejected the Administration's request to zero it out.

Johnson O'Malley Assistance Grants. Congress rejected the Administration's request to zero out funding for the Johnson O'Malley program; however, the Senate Report once again raises concerns about the accuracy of the student count:

The Committee remains concerned about the distribution methodology of the Johnson O'Malley [JOM] assistance grants and requests the Bureau report back to the Committee within 90 days of enactment of this act on the status of updating the JOM counts and the methodology used to determine the new counts. The Committee would like the Bureau to include what, if any, barriers there are to providing updates to the JOM count.

Post Secondary Programs (Forward Funded)

FY 2018 Enacted	\$ 94,183,000
FY 2019 Admin. Request	\$ 72,128,000
FY 2019 House	\$105,190,000
FY 2019 Senate	\$ 99,992,000
FY 2019 Enacted	\$100,992,000

This sub-activity includes Tribal Colleges and Universities and Tribal Technical Colleges (United Tribes Technical College (UTTC) and Navajo Technical University (NTU)) and now, finally, Haskell and SIPI. (For amounts by program element, see p. 783 of the attachment.)

Congress rejected the Administration's requested cuts and provided a \$1 million increase for *Tribal Colleges and Universities*.

Study of Unfunded Tribal College Needs. The Senate Report once again requests the following:

The Committee also recognizes that many Tribal colleges have significant unfunded needs and directs the Bureau to work with Tribal leaders and other stakeholders to develop a consistent methodology for determining Tribal college operating needs to inform future budget requests. The Committee expects the methodology to address operating and infrastructure needs including classrooms and housing.

Post Secondary Programs (Non-Forward Funded)

FY 2018 Enacted	\$64,171,000
FY 2019 Admin. Request	\$20,524,000
FY 2019 House	\$41,658,000
FY 2019 Senate	\$41,658,000
FY 2019 Enacted	\$41,658,000

The non-forward funded Post Secondary Programs sub-activity includes: Tribal Colleges and Universities Supplements; Scholarships and Adult Education; Special Higher Education Scholarships; and the Science Post Graduate Scholarship Fund. (For amounts by program element, see p. 784 of the attachment.)

Congress rejected the Administration's request to cut the *Tribal Colleges and Universities Supplements* and to zero out everything else.

Education Management

FY 2018 Enacted	\$35,254,000
FY 2019 Admin. Request	\$23,282,000
FY 2019 House	\$35,355,000
FY 2019 Senate	\$35,355,000
FY 2019 Enacted	\$35,355,000

The *Education Management* sub-activity consists of Education Program Management and Information Technology.

Congress rejected the Administration's request to cut \$9.4 million from *Education Program Management* and \$2.5 million from *Information Technology*.

High-Speed Internet Access for Schools. The Senate Report continues language from FY 2018, once again requesting the following report:

The Committee understands the importance of bringing broadband to reservations and villages, but remains concerned about how these funds are used and the planning process used for this type of investment. The Committee directs the agency to report back within 90 days of enactment of this act on a scalable plan to increase bandwidth in schools, procure computers, and software. This report should also include how the Bureau is working with other Federal agencies to coordinate and plan for the technology buildout.

**CONTRACT SUPPORT COSTS**

FY 2018 Enacted	<i>Such sums as may be necessary</i> (Estimated: \$241,600,000)
FY 2019 Admin. Request	<i>Such sums as may be necessary</i> (Estimated: \$247,000,000)
FY 2019 House	<i>Such sums as may be necessary</i> (Estimated: \$247,000,000)
FY 2019 Senate	<i>Such sums as may be necessary</i> (Estimated: \$247,000,000)
FY 2019 Enacted	<i>Such sums as may be necessary</i> (Estimated: \$247,000,000)

Congress concurred with the Administration's request that Contract Support Costs (CSC) continue as an indefinite appropriation at "such sums as may be necessary" and that it continue in its own separate account comprised of *Contract Support* (such sums as may be necessary, estimated to be: \$242,000,000) and *the Indian Self-Determination Fund* (\$5,000,000).

The House Report states:

The Committee recommends an indefinite appropriation estimated to be \$247,000,000 for contract support costs incurred by the agency as required by law. The bill includes language making available for two years such sums as are necessary to meet the Federal government's full legal obligation, and prohibiting the transfer of funds to any other account for any other purpose.

The Senate Report states:

*Contract Support Costs.*—The Committee has continued language from fiscal year 2018 establishing an indefinite appropriation for contract support costs estimated to be \$247,000,000 which is an increase of \$5,400,000 above the fiscal year 2018 level. By retaining an indefinite appropriation for this account, additional funds may be provided by the Bureau if its budget estimate proves to be lower than necessary to meet the legal obligation to pay the full amount due to Tribes. The Committee believes fully funding these costs will ensure that Tribes have the necessary resources they need to deliver program services efficiently and effectively.

*General Provisions Continued.* At the Administration's request, Congress continued by reference the following general provisions:

*Contract Support Costs, Prior Year Limitation*

*Sec. 405.* Sections 405 and 406 of division F of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235) shall continue in effect in fiscal year 2019.

*Contract Support Costs, Fiscal Year 2019 Limitation*

*Sec. 406.* Amounts provided by this Act for fiscal year 2019 under headings "Department of Health and Human Services, Indian Health Service, Contract Support Costs" and "Department of the Interior, Bureau of Indian Affairs and Bureau of Indian Education, Contract Support Costs" are the only amounts available for contract support costs arising out of self-determination or self-governance contracts, grants, compacts, or annual funding agreements for fiscal year 2019 with the Bureau of Indian Affairs or the Indian Health Service: *Provided,* That such amounts provided by this Act are not available for payment of claims for contract support costs for prior years, or for repayment of payments for settlement or judgments awarding contract support costs for prior years.

**CONSTRUCTION**

FY 2018 Enacted	\$354,113,000
FY 2019 Admin. Request	\$133,288,000*
FY 2019 House	\$354,485,000
FY 2019 Senate	\$359,419,000
FY 2019 Enacted	\$358,719,000

\*(The Administration was requesting to spend \$133,288,000 but "cancel" \$21,367,000 in unobligated, prior fiscal year balances for a total of \$111,921,000.)

The *Construction* budget includes: Education Construction; Public Safety and Justice Construction; Resources Management Construction; and Other Program Construction/ General Administration.

Congress rejected all of the Administration's requests for drastic cuts and rescissions to *Construction*, instead providing that, "All programs, projects, and activities are maintained at fiscal year 2018 levels except for requested fixed cost increases and transfers, or unless otherwise specified below."

**EDUCATION CONSTRUCTION**

FY 2018 Enacted	\$238,245,000
FY 2019 Admin. Request	\$ 72,851,000
FY 2019 House	\$238,250,000
FY 2019 Senate	\$238,250,000
FY 2019 Enacted	\$238,250,000

The *Education Construction* sub-activities are: Replacement School Construction; Replacement Facility Construction; Employee Housing Repair; and Facilities Improvement and Repair.

Congress rejected the Administration's request to zero out *Replacement School Campus Construction* and *Replacement Facility Construction*. Congress continued the robust funding levels provided in FY 2018, apportioning the funding as follows:

- Replacement School Campus Construction \$105,504,000
- Replacement Facility Construction \$ 23,935,000
- Employee Housing Repair \$ 13,576,000
- Facilities Improvement and Repair \$ 95,235,000

School Campus Replacement Construction List. The House Report provides the following direction:

The Committee recognizes the School Facilities & Construction Negotiated Rulemaking Committee established under Public Law 107–110 for the equitable distribution of funds. Appropriations in this bill for campus-wide replacement are limited to the 10 schools selected via the rulemaking committee process and published by Indian Affairs on April 5, 2016. Indian Affairs should submit a similar list for facilities with the fiscal year 2020 budget request.

Innovative Financing for Repair and Replacement. The House Report continues to express support for innovative financing options for school campus replacement:

The Committee continues to strongly support innovative financing options to supplement annual appropriations and accelerate repair and replacement of Bureau schools, including through the use of construction bonds, tax credits, and grant programs. Indian Affairs is urged to work with any Tribes willing to include such financing in ongoing and future projects.

Facilities Improvement and Repair: Deferred Maintenance and Safety Inspections. The Senate Report provides the following direction and requests the following reports:

The Committee expects the increases continued for the facility improvement and repair program shall be used to address deficiencies identified by annual school safety inspections.

The Committee remains concerned about the deferred maintenance projects at schools and directs the Bureau to submit the allocation plan as required by Public Law 115–31.

The Committee is encouraged to learn that BIA and BIE continue to work together to ensure annual safety inspections are completed for all BIE school facilities. However, the Committee is concerned that, as recommended by the Government Accountability Office in report GAO–16–313, BIA and BIE have not developed concrete tracking and capacity-building systems to ensure safety issues flagged by these inspections are addressed in a timely manner. Furthermore, the Committee is concerned by reports from tribally operated BIE schools that BIE does not provide timely access to or training about the Facilities Improvement and Repair Program and other available emergency maintenance funding. The Committee directs BIE and BIA to report back within 90 days with a detailed implementation plan to address these remaining concerns.

Long-Term Facilities Plan. The Senate Report continues to request a long-term facilities plan for BIE-system schools modeled after the one produced by the Department of Defense Education Activity:

The Committee understands many schools are in need of repair, improvement, and upgrades in order to bring schools into good condition. The Committee stands ready to work with the administration and Tribes to develop a comprehensive strategy that provides safe, functional, and accessible facilities for schools. The

Committee directs the Bureau to report back within 90 days of enactment of this act on the progress the Bureau has made towards implementing a long-term facilities plan similar to the Department of Defense process in 2009 as encouraged in the joint explanatory statement accompanied by Public Law 114–113.

**PUBLIC SAFETY & JUSTICE (PS&J) CONSTRUCTION**

FY 2018 Enacted	\$35,309,000
FY 2019 Admin. Request	\$10,421,000
FY 2019 House	\$35,310,000
FY 2019 Senate	\$35,310,000
FY 2019 Enacted	\$35,310,000

The *Public Safety & Justice Construction* sub-activities are: Facilities Replacement/New Construction; Employee Housing; Facilities Improvement and Repair; Fire Safety Coordination; and Fire Protection.

Congress continued the robust funding levels from FY 2018, apportioning the funding as follows:

- Facilities Replacement and New Construction \$18,000,000
- Employee Housing \$ 4,494,000
- Facilities Improvement and Repair \$ 9,372,000
- Fire Safety Coordination \$ 170,000
- Fire Protection \$ 3,274,000

Master Plan Development. The House Report continues language from FY 2018 calling for the following master plan to be maintained:

The Bureau is directed to maintain a master plan detailing the location, condition, and function of existing owned and leased facilities relative to location and size of the user populations. The plan shall be used to prioritize facilities replacement and new construction to fill in the largest service gaps first. Regional justice centers that combine functions and serve multiple user populations, while providing for reasonable driving distances for visitation and transport, should be strongly considered.

**RESOURCES MANAGEMENT CONSTRUCTION**

FY 2018 Enacted	\$67,192,000
FY 2019 Admin. Request	\$38,026,000
FY 2019 House	\$67,231,000
FY 2019 Senate	\$72,231,000
FY 2019 Enacted	\$71,231,000

The *Resources Management Construction* sub-activities are: Irrigation Project Construction; Engineering and Supervision; Survey and Design; Federal Power and Compliance; and Dam Projects.

Congress rejected the Administration's proposed cuts, instead providing funding near FY 2018 levels.

*Irrigation Projects Authorized by the Water Infrastructure Improvements for the Nation (WIIN Act).*

The WIIN Act created the Indian Irrigation Fund (Fund) to help address the deferred maintenance needs and water storage needs of certain categories of Indian irrigation projects. The WIIN Act authorizes deposits from the general U.S. Treasury into the Fund and authorizes Congress through FY 2028 to provide yearly expenditures from the Fund through the yearly appropriations process. For FY 2019 Congress provided \$10 million in expenditures from the Fund and directs the BIA "to report back to the Committees on Appropriations within 90 days of enactment of this Act outlining the execution strategy for those funds provided under section 3211 of the WIIN Act (P.L. 114–322)."

*Dam Safety Classification.* The Senate Report provides the following direction:

The Committee continues the increases for dam safety and is concerned there is an unknown number of dams on reservations that have not received a hazard classification and that the current review process is behind schedule resulting in delays for dams to receive a comprehensive review. The Committee strongly encourages the Bureau to begin the work on the dams and report back to the Committee on the best way to effectively quantify the potential pool of dams on reservations in need of a review and/or classification.

**OTHER PROGRAM CONSTRUCTION/ GENERAL ADMINISTRATION**

FY 2018 Enacted	\$13,367,000
FY 2019 Admin. Request	\$11,990,000
FY 2019 House	\$13,694,000
FY 2019 Senate	\$13,628,000
FY 2019 Enacted	\$13,928,000

The *Other Program Construction* sub-activities are: Telecommunications Improvement and Repair; Facilities/Quarters Improvement and Repair; and Construction Program Management.

Congress provided near level funding, apportioning it as follows:

\$1,419,000 for telecommunications, including \$300,000 to improve officer safety by eliminating radio communications dead zones; \$3,919,000 for facilities and

quarters; and \$8,590,000 for program management, including \$2,634,000 to continue the project at Fort Peck.

**INDIAN LAND AND WATER CLAIMS SETTLEMENTS AND  
MISCELLANEOUS PAYMENTS TO INDIANS**

FY 2018 Enacted	\$55,457,000
FY 2019 Admin. Request	\$45,644,000
FY 2019 House	\$50,057,000
FY 2019 Senate	\$55,457,000
FY 2019 Enacted	\$50,057,000

For amounts by settlement, see p. 786 of the attachment. Further, the Act provides, "That the Secretary shall make payments in such amounts as necessary to satisfy the total authorized amount for the Navajo Nation Water Rights Trust Fund." Congress in the Explanatory Statement says that the amounts provided ensure that Indian Affairs will meet the statutory deadlines of all authorized settlement agreements to date.

**INDIAN GUARANTEED LOAN PROGRAM**

FY 2018 Enacted	\$ 9,272,000
FY 2019 Admin. Request	\$ 6,699,000
FY 2019 House	\$19,279,000
FY 2019 Senate	\$ 9,279,000
FY 2019 Enacted	\$10,779,000

This program guarantees or insures loans covering up to 90 percent of outstanding loan principal to Indian tribes, tribal members, or for profit and not-for-profit businesses which are at least 51% Indian owned.

OTHER RELATED AGENCIES

**OFFICE OF NAVAJO-HOPLINDIAN RELOCATION**

FY 2018 Enacted	\$15,431,000
FY 2019 Admin. Request	\$ 4,400,000
FY 2019 House	\$ 7,750,000
FY 2019 Senate	\$ 7,400,000
FY 2019 Enacted	\$ 8,750,000

The Office of Navajo and Hopi Indian Relocation (ONHIR) was created as a result of the Navajo Hopi Settlement Act of 1974, Public Law 93-531. The Office is charged with planning and conducting relocation activities associated with the settlement of land disputes between the Navajo Nation and Hopi Tribe.

For FY 2019, the Administration had requested a funding cut for the Office "... to facilitate and expedite resettlement activities, and bring about the closure of the Office." Part of this request would have involved transferring \$3 million to the Office of Special Trustee (OST) with OST then assuming responsibility for development of a detailed transition plan for a phased closure of ONHIR as well as the transfer the land management activities currently conducted by ONHIR to a new office within OST.

Congress, however, had other ideas. The Explanatory Statement says:

The bill provides \$8,750,000 for the Office of Navajo and Hopi Indian Relocation (ONHIR), of which \$1,000,000 is to be transferred to the Department of the Interior, Office of Inspector General, for a comprehensive audit of ONHIR's finances and any related investigations that are necessary in preparation for the eventual transfer of responsibilities to the Department when ONHIR closes.

The agreement continues the direction provided in the explanatory statement accompanying Division G of the Consolidated Appropriations Act, 2017, P.L. 115-31. The Conferees remain committed to bringing the relocation process to an orderly conclusion and ensuring all eligible relocatees receive the relocation benefits to which they are entitled. Consultation with all affected parties and agencies is the key to a transparent, orderly closeout. The statute provides for termination of ONHIR when the President determines its functions have been fully discharged. That determination requires development of a comprehensive plan. The Conferees expect to receive a progress report on development of this plan within 90 days of enactment of this Act.

NATIONAL PARK SERVICE

**TRIBAL HISTORIC PRESERVATION**

FY 2018 Enacted	\$11,485,000
FY 2019 Admin. Request	\$ 5,738,000
FY 2019 House	\$11,485,000
FY 2019 Senate	\$11,485,000
FY 2019 Enacted	\$11,735,000

The Tribal Historic Preservation Program provides funding to tribes that have signed agreements with the National Park Service designating them as having an approved Tribal Historic Preservation Officer (THPO).

## NATIONAL RECREATION AND PRESERVATION

*National Recreation and Preservation* is found under a different part of the National Park Service budget than *Historic Preservation*.

Congress rejected the Administration's proposed cuts, including the proposal to zero out National Native American Graves Protection and Repatriation Act (NAGPRA) grants. Instead, Congress provided level funding and in some cases, targeted increases. The Explanatory Statement provides the following direction:

*Cultural Programs.*—The agreement includes \$25,562,000 for cultural programs, an increase of \$500,000 above the enacted level. The increase above the enacted level is provided pursuant to 20 U.S.C. 4451(b) for grants to nonprofit organizations or institutions for the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development at a total program level of \$1,000,000 to be utilized consistent with the direction outlined in the explanatory statement accompanying Public Law 115– 141. This program is a good example of a multi-state, multi-organizational collaboration as envisioned under the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act.

### DEPARTMENTAL OFFICES: OFFICE OF THE SECRETARY [INTERIOR] DEPARTMENTAL OPERATIONS

*Department of Interior Reorganization.* The Explanatory Statement maintains that as the Department proceeds with the different phases of the Reorganization, tribes must still be taken into account, despite the fact that the Department has not changed the regional boundaries for Indian Affairs:

*Department of the Interior Reorganization.*—The Conferees note that the Department moved forward with the first phase of its planned reorganization on August 22, 2018, when it established new regional boundaries for all of its bureaus except for those which fall under the leadership of the Assistant Secretary of Indian Affairs. Recognizing that many of the specific details of the reorganization are still in development, the Conferees reiterate that the Department must develop a concrete plan for how it will reshape its essential functions, taking into account its relationships with the Tribes, State and local governments, private and nonprofit partners, the public, and the Department's workforce. Transparency must be an essential element of the reorganization process, and the Department is expected to continue engaging external stakeholders and conducting robust Tribal consultation as it develops its expected organizational changes.

The Conferees appreciate the commitment of Departmental leadership, through an exchange of formal letters, to regularly consult with the Committees throughout the ongoing reorganization process and to adhere to the reprogramming guidelines set forth in the explanatory statement accompanying this Act, which require the Department to submit certain organizational changes for Committee review,

including workforce restructure, reshaping, or transfer of functions. The Conferees also note that the agreement includes a total of \$14,100,000 in new funding to implement the reorganization within the budgets of the Bureau of Land Management, U.S. Fish and Wildlife Service, National Park Service, U.S. Geological Survey, and Bureau of Indian Affairs, and expect the Department to provide a report on the planned use of these funds to the Committees 30 days prior to obligating these funds.

The Senate Report states:

*Reorganization.*—The Committee has provided funds as requested for the Department's reorganization plan. However, many of the details of this proposal remain unknown. This is in large part because the Department is seeking the input of many stakeholders and has yet to incorporate these recommendations into its final reorganization plan. Given the current lack of specifics relating to the reorganization proposal, the Committee directs the Department to not obligate these funds until the Secretary has submitted a reprogramming in accordance with the procedures outlined in this report that provides greater detail on the reorganization, its impacts on staff, funding, and service delivery, and how these funds will be expended. The Committee has heard from tribal organizations about the need for more robust consultation related to this proposal as well, and therefore expects the Department to meet with these groups and formulate a process for tribal consultation that meets the needs of all stakeholders. The Committee further expects the Department to continue to meet with the committees of jurisdiction, to inform them ahead of forthcoming actions and to respond to their requests for the quantitative analyses and materials associated with this proposal.

We also note that the Act contains language found under TITLE VI—GENERAL PROVISIONS—THIS ACT, SEC. 608 which would restrict the Executive Branch from obligating or expending any funds to reorganize "any agency or entity" funded by the Act until specific reports have been received and formal reprogramming requests have been approved by both the House and Senate Appropriations Committees. The Act gives each agency 60 days from the date of enactment to submit the requested report. The Act would also reduce the amount appropriated for salaries and expenses by \$100,000 per day from any agency that is late providing the report until the report is received.

*National Monument Designations.* The House Report provides the following direction:

The Department is directed to work collaboratively with interested parties, including but not limited to, the Congress, States, local communities, Tribal governments and others prior to planning, implementing, or making national monument designations.

*Chief Standing Bear Trail.* The House Report states:

The Committee recognizes the importance of Chief Standing Bear as one of America's earliest civil rights leaders. The Committee supports the work on the State and local level to establish a multi-state trail commemorating his accomplishments and urges the Secretary to assist in these efforts.

*Alyce Spotted Bear and Walter Soboleff Commission on Native Children.* At the request of Senators Moran (R-KS) and Murkowski (R-AK) and former Senator Heitkamp (D-ND) the Act provides \$400,000 for the Alyce Spotted Bear and Walter Soboleff Commission on Native Children which was established by Public Law 114-244.

If we may provide additional information or assistance regarding FY 2019 INDIAN AFFAIRS, OTHER RELATED AGENCIES, or NATIONAL PARK SERVICE appropriations, please contact us at the information below.

# # #

Inquiries may be directed to:  
Moriah O'Brien ([mobrien@hobbsstrauss.com](mailto:mobrien@hobbsstrauss.com))

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2019  
(Amounts in thousands)

	FY 2018 Enacted	FY 2019 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
State grants.....	115,000	---	115,000	---	+115,000
Total, Abandoned Mine Reclamation Fund.....	139,672	20,375	139,672	---	+119,297
=====					
TOTAL, OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.....	255,476	121,673	255,476	---	+133,803
=====					

BUREAU OF INDIAN AFFAIRS AND BUREAU OF INDIAN  
EDUCATION

Operation of Indian Programs

Tribal Government:					
Aid to tribal government.....	28,688	24,328	28,902	+204	+4,576
Consolidated tribal government program.....	75,429	72,634	75,839	+410	+3,205
Self governance compacts.....	165,089	157,790	166,225	+1,156	+8,435
New tribes.....	1,120	1,120	1,120	---	---
Small and needy tribes.....	4,448	---	4,448	---	+4,448
Road maintenance.....	34,653	28,318	35,823	+1,170	+7,505
Tribal government program oversight.....	8,550	7,328	8,616	+88	+1,290
Subtotal.....	317,967	291,514	320,973	+3,006	+29,459
=====					

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2019  
(Amounts in thousands)

	FY 2018 Enacted	FY 2019 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
<b>Human Services:</b>					
Social services.....	52,832	32,864	53,084	+252	+20,220
Welfare assistance.....	76,000	65,794	76,000	---	+10,206
Indian child welfare act.....	19,080	13,696	19,154	+74	+5,458
Housing improvement program.....	9,708	---	9,708	---	+9,708
Human services tribal design.....	263	259	270	+7	+11
Human services program oversight.....	3,180	2,745	3,200	+20	+455
Subtotal.....	161,063	115,358	161,416	+353	+46,058
<b>Trust - Natural Resources Management:</b>					
Natural resources, general.....	4,862	4,868	6,419	+1,537	+1,553
Irrigation operations and maintenance.....	14,009	9,134	14,023	+14	+4,889
Rights protection implementation.....	40,161	24,737	40,273	+112	+15,536
Tribal management/development program.....	11,652	8,660	11,681	+29	+3,021
Endangered species.....	2,693	1,308	2,697	+4	+1,391
Cooperative landscape conservation.....	9,956	---	9,956	---	+9,956
Integrated resource information program.....	2,971	2,576	2,974	+3	+398
Agriculture and range.....	31,096	27,977	31,251	+155	+3,274
Forestry.....	54,877	48,872	55,691	+714	+6,719
Water resources.....	10,581	8,567	10,814	+33	+2,047
Fish, wildlife and parks.....	15,280	11,436	15,287	+27	+3,851
Resource management program oversight.....	6,064	5,293	6,104	+40	+811
Subtotal.....	204,202	153,424	206,870	+2,668	+53,446
<b>Trust - Real Estate Services.....</b>					
	129,841	105,484	130,680	+839	+25,196

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2019  
(Amounts in thousands)

	FY 2018 Enacted	FY 2019 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
<b>Education:</b>					
Elementary and secondary programs (forward funded):					
ISEP formula funds.....	402,906	378,055	404,165	+1,259	+26,110
ISEP program adjustments.....	5,457	2,817	5,479	+22	+2,882
Education program enhancements.....	12,248	6,341	12,278	+30	+5,937
Tribal education departments.....	2,500	---	2,500	---	+2,500
Student transportation.....	56,285	50,802	56,413	+128	+5,811
Early child and family development.....	18,810	---	18,810	---	+18,810
Tribal grant support costs.....	81,038	73,973	82,935	+1,899	+8,962
Subtotal.....	579,242	511,788	582,580	+3,338	+70,792
Post secondary programs (forward funded):					
Tribal colleges and universities.....	89,793	65,664	70,793	+1,000	+5,129
Tribal technical colleges.....	7,505	6,464	7,505	---	+1,041
Haskell & SIPI.....	16,885	---	22,694	+5,809	+22,694
Subtotal.....	94,183	72,128	100,992	+8,809	+28,864
Subtotal, forward funded education.....					
	673,425	583,916	683,572	+10,147	+99,656
Elementary and secondary programs:					
Facilities operations.....	66,608	60,405	68,795	+2,187	+8,390
Facilities maintenance.....	59,582	53,723	59,774	+222	+6,051
Juvenile detention center education.....	500	---	500	---	+500
Johnson O'Malley assistance grants.....	14,903	---	14,903	---	+14,903
Subtotal.....	141,593	114,128	143,972	+2,409	+29,844

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2019  
(Amounts in thousands)

	FY 2018 Enacted	FY 2019 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
<b>Post secondary programs:</b>					
Haskell & SIPI.....	22,513	19,376	---	-22,513	-19,376
Tribal colleges and universities supplements.....	1,220	1,148	1,220	---	+72
Scholarships & adult education.....	34,986	---	34,986	---	+34,986
Special higher education scholarships.....	2,982	---	2,982	---	+2,982
Science post graduate scholarship fund.....	2,450	---	2,450	---	+2,450
Subtotal.....	64,171	20,524	41,658	-22,513	+21,134
<b>Education management:</b>					
Education program management.....	24,957	15,575	25,053	+96	+9,478
Education IT.....	10,297	7,707	10,302	+5	+2,595
Subtotal.....	35,254	23,282	35,355	+101	+12,073
Subtotal, Education.....	914,413	741,850	904,557	-9,856	+162,707
<b>Public Safety and Justice:</b>					
<b>Law enforcement:</b>					
Criminal investigations and police services.....	211,632	190,753	213,309	+1,877	+22,556
Detention/corrections.....	100,456	94,027	102,982	+2,526	+8,955
Inspections/internal affairs.....	3,510	3,335	3,528	+18	+193
Law enforcement special initiatives.....	10,368	8,659	10,412	+44	+1,753
Indian police academy.....	4,902	4,865	4,925	+23	+280
Tribal justice support.....	22,284	7,233	22,271	+7	+15,038
VAWA.....	(2,000)	---	(2,000)	---	(+2,000)
PL 280 courts.....	(13,000)	---	(13,000)	---	(+13,000)

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2019  
(Amounts in thousands)

	FY 2018 Enacted	FY 2019 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Law enforcement program management.....	6,530	5,381	6,555	+25	+1,174
Facilities operations and maintenance.....	13,657	12,588	13,701	+44	+1,105
Tribal courts.....	30,618	22,110	32,244	+1,826	+10,134
Fire protection.....	1,583	1,372	1,590	+7	+218
Subtotal.....	405,520	350,131	411,517	+5,997	+81,386
Community and economic development.....	46,447	35,826	47,579	+1,132	+11,753
Executive direction and administrative services.....	231,747	209,408	230,985	-762	+21,578
(Amounts available until expended, account-wide).....	(53,991)	(35,598)	(55,174)	(+1,183)	(+19,578)
Total, Operation of Indian Programs.....	2,411,200	2,002,986	2,414,577	+3,377	+411,581
Contract Support Costs					
Contract support costs.....	236,600	242,000	242,000	+5,400	---
Indian self-determination fund.....	5,000	5,000	5,000	---	---
Total, Contract Support Costs.....	241,600	247,000	247,000	+5,400	---
Construction					
Education.....	238,245	72,851	238,250	+5	+165,399
Public safety and justice.....	35,309	10,421	35,310	+1	+24,889
Resources management.....	67,192	38,026	71,231	+4,039	+33,205
General administration.....	13,367	11,990	13,828	+561	+1,838
Subtotal.....	354,113	133,288	358,719	+4,606	+225,431

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2019  
(Amounts in thousands)

	FY 2018 Enacted	FY 2019 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Rescission.....	---	-21,367	---	---	+21,367
Total, Construction.....	354,113	111,921	358,719	+4,606	+246,798
Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians					
Land Settlements:					
White Earth Land Settlement Act (Admin) (P.L. 99-264)	625	---	625	---	+625
Hoopa-Yurok Settlement Act (P.L. 100-580).....	250	---	---	-250	---
Water Settlements:					
Pyramid Lake Water Rights Settlement (P.L. 101-618)...	142	---	142	---	+142
Navajo Water Resources Development Trust Fund (P.L. 111-11).....	4,011	---	4,011	---	+4,011
Navajo-Gallup Water Supply Project (P.L. 111-11).....	21,720	---	21,720	---	+21,720
Pechanga Band of Luiseno Mission Indians Water Rights Settlement Act (P.L. 114-322).....	9,192	---	9,192	---	+9,192
Blackfeet Water Rights Settlement (P.L. 114-322).....	19,517	---	14,387	-5,150	+14,387
Unallocated.....	---	45,644	---	---	-45,644
Total, Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians.....	55,457	45,644	50,057	-5,400	+4,413

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2019  
(Amounts in thousands)

	FY 2018 Enacted	FY 2019 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Indian Guaranteed Loan Program Account					
Indian guaranteed loan program account.....	9,272	6,699	10,779	+1,507	+4,080
Administrative Provisions					
Rescission.....	-8,000	---	---	+8,000	---
TOTAL, BUREAU OF INDIAN AFFAIRS AND BUREAU OF INDIAN EDUCATION.....					
	3,063,642	2,414,260	3,081,132	+17,490	+666,872
DEPARTMENTAL OFFICES					
Office of the Secretary					
Leadership and administration.....	105,405	107,368	107,368	+1,963	---
Management services.....	18,777	27,305	27,305	+8,528	---
General reduction.....	---	---	-10,000	-10,000	-10,000
Total, Office of the Secretary.....	124,182	134,673	124,673	+491	-10,000