

Calendar No. 949

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 106-501

TO MAKE CERTAIN TECHNICAL CORRECTIONS IN LAWS RELATING TO NATIVE AMERICANS, AND FOR OTHER PURPOSES

OCTOBER 12 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

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

REPORT

[To accompany S. 3031]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 3031) to make certain technical corrections in laws relating to Native Americans, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

PURPOSE OF THE BILL

The purpose of S. 3031, the Native American Laws Technical Corrections Act of 2000, is to make technical corrections to certain Federal Indian statutes.

BACKGROUND AND NEED FOR LEGISLATION

The bill provides an opportunity to address a number of minor, noncontroversial issues in one package, as opposed to introducing and attempting to legislate a number of smaller bills. S. 3031 contains seven separate provisions dealing with a variety of topics including a one-year reauthorization of the Indian Health Care Improvement Act and the Indian Alcohol and Substance Abuse Prevention and Treatment Act, as well as a clarification of a bill signed into law earlier this year designating certain acreage acquired by the Mississippi Band of Choctaw as trust lands. A more detailed explanation of each amendment is included in the bill's

section-by-section analysis. S. 3031 would make certain technical corrections in laws relating to Native Americans.

SECTION-BY-SECTION ANALYSIS

Section 101. Technical correction to an act affecting the status of Mississippi Choctaw Lands and adding such lands to the Choctaw reservation. Section 1 corrects a technical error made in Section 1(a)(2) of Public Law 106–228, which takes certain lands into trust for the Mississippi Band of Choctaw Indians. The lands declared “trust lands” are incorrectly referenced as contained in a report dated September 28, 1999. This section strikes the date, “September 28, 1999” and inserts the correct date of “February 7, 2000.”

Section 102. Technical corrections concerning the Five Civilized Tribes of Oklahoma. This section makes several corrections with respect to the approval of contracts relative to the property of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole Indian tribes. Indian tribes participating in self-governance pursuant to the Indian Self Determination and Education Assistance Act, as amended, 25 U.S.C. 450 et seq., are exempt from the provisions of 25 U.S.C. Section 81. Four of the Five Civilized Tribes are self-governance tribes. However, these tribes are still subject to the requirements of 25 U.S.C. section 82(a) which imposes nearly identical requirements. In addition, subsection (c) eliminates several antiquated and unused provisions of Federal law that cross-reference sections 81 and 82(a).

Section 103. Waiver of repayment of expert assistance loans to the Red Lake Band of Chippewa Indians and the Minnesota Chippewa Tribes. Pursuant to Public Law 88–168 (77 Stat. 301), this section provides for the cancellation of balances due and owing on loans made to the Red Lake Band of Chippewa Indians and the Minnesota Chippewa Tribe to assist them in determining their total losses due to the mismanagement of their timber resources by the BIA in claims brought in the Indian Claims Commission (ICC).

Section 104. Technical amendment to the Indian Child Protection and Family Violence Protection Act. This section amends section 408(b) of the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. 3207(b), by amending the provision relating to minimum standards of character to be considered for current or prospective Bureau of Indian Affairs (BIA) employees in positions that involve regular contact with Indian children. As amended, the Act requires that an applicant or employee be found guilty of a felony or of two misdemeanors before the person can be denied employment or dismissed from current employment.

Section 105. Technical amendment to extend the authorization period under the Indian Health Care Improvement Act. Because the Act’s authorization expires September 20, 2000, This section extends the authorization of the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq., through September 30, 2001.

Section 106. Technical amendment to extend the authorization period under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. Because the Act’s authorization expires September 30, 2000, this section extends the authorization of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) through fiscal year 2001.

Section 107. Native Nations Institute. This section amends the Morris K. Udall and Excellence in National Environmental and Native American Public Policy Act of 1992 to expand opportunities to assist Indian tribal governments in developing leadership and management curricula and training. The program—called the “Native Nations Institute for Leadership, Management and Policy”—will be facilitated by a partnership between the University of Arizona, the Udall Foundation and the Harvard Project on American Indian Economic Development.

Section 108. Technical Amendment Regarding the Treatment of Certain Income for Purposes of Federal Assistance. This section amends 25 U.S.C. 1407 by including in such section payments made to the Bois Forte Band of Chippewa Indians pursuant to the agreements of such Band to voluntarily restrict its rights to hunt and fish in territory ceded under the Treaty of September 30, 1854 (10 Stat. 1109).

Title II/Section 201–204. Santa Fe Indian School. This section provides that the tract of land known as the “Santa Fe Indian School”, consisting of 105.265 acres which are owned by the United States and administered by the Bureau of Indian Affairs will be held in trust for the 19 Pueblos of New Mexico for purposes of culture, education and health only. If the lands are used for any non-complying purposes, the lands shall revert to the United States.

LEGISLATIVE HISTORY

S. 3031 was introduced on September 12, 2000, by Chairman Campbell and was referred to the Committee on Indian Affairs. On September 27, 2000, the Committee on Indian Affairs ordered a substitute amendment to S. 3031 favorably reported to the Senate.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On September 27, 2000, the Committee on Indian Affairs, in an open business session adopted an amendment in the nature of a substitute to S. 3031 and ordered the bill, as amended, reported favorably to the full Senate.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 3031, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 12, 2000.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3031, the Native American Laws Technical Corrections Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lisa Cash Driskill.

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

S. 3031—Native American Laws Technical Corrections Act of 2000

Summary: S. 3031 would make technical corrections in several laws relating to Native Americans. The bill would eliminate a current requirement on some tribes to repay certain loans for expert assistance. It also would authorize the appropriation of \$12.3 million over the next five years for the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation. Finally, it would exclude certain income for purposes of determining federal assistance to individuals.

CBO estimates that eliminating the requirement to repay certain loans for expert assistance loans as directed by S. 3031 would increase direct spending by about \$4 million in 2001; therefore, pay-as-you-go procedures would apply. In addition, the bill would increase federal assistance payments by a small amount. CBO also estimates that implementing the provisions in S. 3031 relating to education of Native Americans would cost \$11 million over the 2001–2005 period, assuming appropriation of the authorized amount.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit some Indian tribes.

Estimated Cost to the Federal Government: The estimated budgetary impact of S. 3031 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development), and 500 (education, training, employment, and social services).

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	4	(¹)	(¹)	(¹)	(¹)
Estimated Outlays	4	(¹)	(¹)	(¹)	(¹)
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	2	2	2	3	3
Estimated Outlays	1	2	2	3	3

¹ = Less than \$500,000.

Basis of estimate

Direct spending

Section 103 of S. 3031 would eliminate the requirement to repay loans for expert assistance made by the federal government to the Red Lake Bank of the Chippewa Indians and the Minnesota Chippewa Tribes. Under current law, the tribes would only be required to pay back such loans in the event they win a judgment sufficient to cover the amount of the loans. S. 3031 would eliminate that requirement so that such loans would not be paid back in the event of either a favorable or unfavorable judgment. The current amount of principal and interest owed to the federal government for these loans is about \$7 million.

Based on information from the Bureau of Indian Affairs (BIA), all court cases that have led to loans for expert assistance should

be completed by 2007. Under current law, CBO assumes that there is a 50 percent chance that the loans will be paid back by 2007. By eliminating the probability of this repayment, the bill would increase the cost of these outstanding loans by about \$4 million. That cost would be recorded in 2001 because any change in a federal loan program is governed by the Federal Credit Reform Act, which requires that the cost of such a change be calculated on a present value basis and recorded in the year that the change is effective.

Section 108 of the bill would reduce the income on which federal assistance programs are determined by \$550 per person for the Fort Bois Band of Chippewa Indians. The state of Minnesota pays this amount to the Fort Bois Band to voluntarily restrict their tribal rights to hunting and fishing. Reducing the income on which federal assistance is paid would only affect federal assistance to about 100 people. Thus, any increase in federal assistance payments would total less than \$55,000 a year.

Spending Subject to Appropriation

Section 105 of S. 3031 would extend through 2001 the authority to appropriate funding for the Indian Health Service (IHS) under the Indian Health Care Improvement Act. Similarly, section 106 would extend the authorization of appropriations for many activities of BIA under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. Both of these acts expired on September 30, 2000. But H.R. 4578, the Department of the Interior and Related Agencies Appropriation Act, 2001, which was enacted on October 11, 2000, contains appropriations for IHS and BIA for fiscal year 2001. Since this appropriation act will allow the IHS and BIA to continue the activities that S. 3031 would reauthorize, the one-year extensions in sections 105 and 106 would have no additional budgetary effect.

Section 107 would authorize the appropriation of \$12.3 million over a five-year period to the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation to provide leadership and management training to Indians and Indian tribes. Based on information from the foundation, CBO estimates that the authorized level would likely be spread across five years with \$2 million to \$3 million used each year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table.

	By fiscal year, in millions of dollars—									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	0	0	0	0	0	0	0	0	0
Changes in receipts	Not applicable									

Intergovernmental and private-sector impact: S. 3031 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. enacting this legislation would benefit some Indian tribes.

Estimate prepared by: Federal Costs: Bureau of Indian Affairs: Lisa Cash Driskill; Indian Health Service: Eric Rollins; and Morris

K. Udall Scholarship: Deborah Kalcevic. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill to evaluate the regulatory paperwork impact that would be incurred in implementing the legislation. The Committee has concluded that enactment of S. 3031 will create only de minimis regulatory or paperwork burdens.

EXECUTIVE COMMUNICATIONS

The Committee has received no official communication from the Administration on the provisions of the bill.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes to existing law made by the bill are required to be set out in the accompanying Committee report. The Committee finds that enactment of the amendment in the nature of a substitute to S. 3031 will result in the following changes in existing law. The matter to be deleted is indicated in black brackets [**]**. The matter to be inserted is indicated in italic.

Mississippi Band of Choctaw Indians Lands

Public Law 106–228

Section 1(a)(2). All land held in fee by the Mississippi Band of Choctaw Indians located within the boundaries of the State of Mississippi, as shown in the report entitled “Report of Fee Lands owned by the Mississippi Band of Choctaw Indians,” dated [September 28, 1999] *February 7, 2000* on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is hereby declared to be held by the United States in Trust for the benefit of the Mississippi Band of Choctaw Indians; and

* * * * *

The Indian Self Determination and Education Assistance Act

25 U.S.C. § 4501(c)

* * * * *

(A) IN GENERAL.—Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) [and section 16], *section 16* of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), [shall not] *and the Act of July 3, 1952 (25*

U.S.C. 82a), shall not apply to any contract entered into in connection with this Contract. 25 U.S.C. 458cc(h)(2);

* * * * *

(2) For the period that an agreement entered into under this part is in effect, the provisions of section 81 of this title, [and section] *section 476* of this title, [shall not] *and the Act of July 3, 1952 (25 U.S.C. 82(a), shall not* apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this part.

Waiver of Repayment of Expert Assistance Loans to the Red Lake Band of Chippewa Indians and Minnesota Chippewa Indians

Pursuant to the authority set forth in the Indian Expert Assistance Loan Act of 1963, Pub. L. 88-168, 77 Stat. 301, the amount of the two loans made to the Red Lake Band of Chippewa Indians and the Minnesota Chippewa Tribe are declared nonrepayable.

The Indian Child Protection and Family Violence Protection Act

25 U.S.C. § 3207(b)

* * * * *

(b) CRIMINAL RECORDS.—The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) have been found guilty of, or entered a plea of nolo contendere or guilty to [any offense] *any felonious offense, or any of 2 more misdemeanors offenses* under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; [or crimes against persons] *crimes against persons; or offenses committed against children.*

* * * * *

The Indian Health Care Improvement Act

25 U.S.C. § 1601, *et seq.*

* * * * *

§ 1616p. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year through [2000] *2001* to carry out this chapter.

* * * * *

§ 1621w. AUTHORIZATION OF APPROPRIATIONS.—Except as provided in sections 1621h(m), 1621j, 1621i, 1621m(b)(5), 1621n, and 1621o of this title, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year ~~2000~~ 2001 to carry out this subchapter.

§ 1647. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year ~~2000~~ 2001 to carry out this subchapter.

* * * * *

§ 1660d. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year ~~2000~~ 2001 to carry out this subchapter.

* * * * *

§ 1663. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year ~~2000~~ 2001 to carry out this subchapter.

* * * * *

§ 1680o. AUTHORIZATION OF APPROPRIATIONS.—Except as provided in section 1680k of this title, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year ~~2000~~ 2001 to carry out this subchapter.

* * * * *

Indian Alcohol and substance abuse Prevention and Treatment Act of 1986

25 U.S.C. § 2401, *et seq.*

* * * * *

SEC. 2412 (d)(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this subsection not more than \$2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 1995, 1996, 1997, 1998, 1999, ~~and~~ 2000, *and* 2001.

* * * * *

(f)(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this subsection \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, ~~and~~ 2000, *and* 2001.

* * * * *

SEC. 2416 6(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this subsection \$500,000 for fiscal year 1993 and such sums as may be

necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

* * * * *

SEC. 2433 (e) AUTHORIZATION.—

(1) For the planning and design, construction, and renovation of, or purchase or lease of land or facilities for, emergency shelters and halfway houses to provide emergency care for Indian youth, there are authorized to be appropriated \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

(2) For the staffing and operation of emergency shelters and half-way houses, there are authorized to be appropriated \$5,000,000 for fiscal year 1993 and \$7,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

* * * * *

SEC. 2442 (d)(3) For the purpose of providing the assistance required by this subsection, there are authorized to be appropriated.—

(A) \$500,000 under paragraph (1)(A) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

(B) \$500,000 under paragraph (1)(B) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

(C) \$500,000 under paragraph (1)(C) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

(b) MARIJUANA ERADICATION AND INTERDICTION.—

(2) For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated \$2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

* * * * *

SEC. 2451 (b) Authorization.—For the purposes of providing training required by subsection (a) of this section, there are authorized to be appropriated \$2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

* * * * *

SEC. 2453 (b) AUTHORIZATION.—

(1) For the purposes of constructing or renovating juvenile detention centers as provided in subsection (a) of this section, there are authorized to be appropriated \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

(2) For the purpose of staffing and operating juvenile detention centers, there are authorized to be appropriated \$7,000,000 for fiscal year 1993 and such sums as may be nec-

essary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, [and] 2000, and 2001.

* * * * *

Morris K. Udall Scholarship and Excellence in National Environmental Policy

20 U.S.C. § 5604(7)

§ 5604. Purpose of Foundation

It is the purpose of the Foundation to—

(1) * * *

* * * * *

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy, by *conducting management and leadership training of Native Americans, Alaska Natives, and others involved in tribal leadership, providing assistance and resources for policy analysis, and carrying out other appropriate activities.*;

* * * * *

§ 5608. Administrative provisions

* * * * *

(b) THE INSTITUTE.—The authorities set forth above shall, with the exception of paragraph (4), apply to the Institute established pursuant to section 6506a of this title and to the activities of the Foundation under section (7).

§ 5609. Authorization of appropriations

(a) TRUST FUND.—

* * * * *

(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—

* * * * *

(c) TRAINING OF PROFESSIONALS IN HEALTH CARE AND PUBLIC POLICY.—*There is authorized to be appropriated to carry out section 6(7) \$12,300,000 for the 5 year period beginning with the first fiscal year that begins after the date of enactment of this subsection.*

* * * * *

Distribution of Judgment Funds

25 U.S.C. 1407

§ 1407. Tax exemption; resources exemption limitation

None of the funds which—

(1) * * *

(2) On January 12, 1983, are to be distributed per capita or are held in trust pursuant to a plan approved by the Congress prior to January 12, 1983 [or]

(3) were distributed pursuant to a plan approved by Congress after December 31, 1981 but prior to January 12, 1983, and any purchases made with such funds, or

(4) are paid by the State of Minnesota to the Bois Forte Band of Chippewa Indians pursuant to the agreements of such Band to voluntarily restrict tribal rights to hunt and fish in territory ceded under the Treaty of September 30, 1854 (10 Stat. 1109), including all interest accrued on such funds during any period in which such funds are held in a minor's trust, including all interest and investment income accrued thereon while such funds are so held in trust.

* * * * *

