



FEDERAL POLICY OUTLOOK FOR THE REMAINDER OF THE 115TH CONGRESS

FOR THE AMERICAN INDIAN LAW CENTER INC.
9TH ANNUAL TRIBAL LEADERSHIP CONFERENCE
TRANSITIONS



The Mapetsi Policy Group

OVERVIEW

- Fiscal Year 2019 Appropriations
- Indian Country and the 2018 Farm Bill
- Threats to Tribal Sovereignty
 - ▣ CMS treatment of tribes as racial groups
 - ▣ Need to protect tribal and federal lands
- Indian Gaming and Sports Betting
- Public Safety & Justice / VAWA 2019
- November Midterm Election Outlook

Status of FY19 Federal Appropriations

- Each year, Congress must pass 12 bills to fund Government agencies and programs:
Agriculture; CJS; Defense; Energy & Water; Financial Services; DHS; ***Interior-EPA***; Labor-HHS-Education; Legislative; Military Con.; State-Foreign Ops; Transportation-HUD
- Trump Administration FY18 and 19 Budgets proposed drastic cuts to tribal + national safety net programs and services = Generally rejected by Congress

Status of FY19 Federal Appropriations

WHITE HOUSE FY18 Budget vs. FY18 OMNIBUS Enacted Level
Trump Budget Request – FY18 Enacted Level

USDA Agriculture	-24%	+10%
Commerce, Justice, Science	-13%	+6%
Energy & Water	-9%	+14%
Interior, EPA	-16%	+10%
Labor, HHS, Education	-15%	+10%
State and Foreign Ops	-24%	+2%
Transportation HUD	-15%	+22%

- February 2018 Bipartisan Congressional Budget: sets spending levels for FY18-19
- March 2018 Congress enacts FY18 Omnibus

Status of FY19 Federal Appropriations



Donald J. Trump ✓

@realDonaldTrump

Follow

As a matter of National Security I've signed the Omnibus Spending Bill. I say to Congress: I will NEVER sign another bill like this again. To prevent this omnibus situation from ever happening again, I'm calling on Congress to give me a line-item veto for all govt spending bills!

- Trump signs FY18 Omnibus, but vows “never again”

Status of FY19 Federal Appropriations

- **Indian Country Focus (House, Senate, Trump):**
- BIA: \$3.1B / \$3B / \$2.4B (*FY18 enacted \$3B*)
- IHS: \$5.9B / \$5.8B / \$5.3B (*FY18 \$5.5B*)
- HUD IHBG: \$755m / \$755m / \$600m (*FY18 \$755m*)
 - ***Note: tribal infrastructure \$\$ schools, PSJ, water, health care, roads, housing, and other critical needs***
- DOJ CTAS: \$87m / \$80m / \$94M (*FY18 \$60m*)
- DOJ CVF: 5% / 5% / 5% (*FY18 – 3%*)
- Labor HHS Education: increases for Tribal Behavioral Health, suicide prevention grants, opioid set asides
 - House provision to reverse CMS attack on tribes
 - House provision would prohibit NLRB vs Tribes

Status of FY19 Federal Appropriations

- **Congress approves FY19 spending deals**
- *Minibus I: Energy & Water/Mil-Con/Leg.*
 - ▣ Passed Congress; Trump signs 9/21/18
- *Minibus II: Defense / Labor HHS Education + continuing resolution (CR) for remaining bills*
 - ▣ Passed Senate on 9/18/18, pending in House
- *Minibus III: Interior/THUD/Agriculture/Financial Services*—likely to get rolled into the CR in Minibus II

Status of FY19 Federal Appropriations



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I want to know, where is the money for Border Security and the WALL in this ridiculous Spending Bill, and where will it come from after the Midterms? Dems are obstructing Law Enforcement and Border Security. **REPUBLICANS MUST FINALLY GET TOUGH!**

5:43 AM - Sep 20, 2018

♥ 116K 💬 71.7K people are talking about this



Indian Country and the 2018 Farm Bill

- @ every 5 years, Congress approves a Farm Bill to set national food and nutrition priorities
- 12 Titles (**\$900B**): SNAP, insurance, conservation, commodities, trade, financing, telecom, forestry
- House and Senate have passed separate bills
- Both include positive tribal provisions
- 56-member Conference Committee negotiating
- *BARRIER*: House SNAP provisions
- USDA programs expire on September 30, 2018

Indian Country and the 2018 Farm Bill

- ***Highlights of positive Tribal Provisions:***
- Respects tribes as separate governments for a number of provisions (set asides / direct \$\$)
- Improves on FDPIR (regionally grown, 638)
- SUTA refinancing for telecom projects in IC
- Forests: “good neighbor” + 638 Demonstration
- Legalizes hemp production for tribes and states
- Codifies Obama Tribal Promise Zones

Indian Country and the 2018 Farm Bill

- **Impact on Tribes from House SNAP changes**
- 24% of Indians vs. 14% national pop. eligible
- House bill ↑ work requirements (20→25 hours) and reduces SNAP benefits by \$20B
 - **States** set requirements + and control job training \$\$\$
- Would cut benefits for +2M people, and removing school lunch for 260k children
- *Indian Country*: cuts eligibility for SNAP while increasing demands on underfunded FDPIR

Sovereignty Threat: CMS

- **Health care services and funding** are the cornerstone of the federal-tribal trust relationship
- Third party billing accounts for \$1.3 BILLION in funding to Indian health services (\$810M Medicaid)
- **1/11/18:** CMS issued directive supporting state effort to impose “work or other requirements” for Medicaid coverage to the poorest Americans
- **1/17/18:** CMS issued legal opinion that it cannot exempt Indians from state requirements, because doing so “could raise civil rights concerns”
- **4/2018:** IC champions lead letters to CMS, and White House outreach pending, urging the Admin. to respect the governmental/political status of Indian Tribes, and stating that “No discretionary action taken by any Administration can impede the direct relationship between the Federal government and the provision of health care for Indian Tribes.”



Sovereignty Threat: Indian and Federal Lands

Administration actions threaten Indian and federal lands

- Expediting infrastructure projects over Indian and federal lands (Keystone XL, FCC, priority on “energy dominance”)
- National Monument Review and reductions = expand oil and gas
- Limits on Land Into Trust: proposed changes to 151 & Alaska Natives
- Interior Reorganization efforts: streamline decision making

Efforts to Counter Agency Action

- ***S. 2907, the Chaco Cultural Heritage Area Protection Act (Udall / Heinrich)***: withdraw Chaco Canyon buffer lands from development
- ***H.R. 4518, Bears Ears Monument Expansion Act (Gallego + 125)***: reverse Monument reduction and expand initial Monument
- ***Administrative Process to Transfer Federal Land to Tribal Trust***: draft legislation to establish federal process to transfer federal lands into trust, restoring tribal homelands

Sports Betting: *Murphy v. NCAA*

- **May 2018, *Murphy v. NCAA***: U.S. Supreme Court overruled PASPA, completely striking the law, including references to IGRA and tribes.
- **Result**: 4 states (NJ, DE, WV, MS) have joined Nevada to legalize sports betting. PA, NY, RI have passed sports betting laws. Other states considering similar laws.
- **Tribes must comply with IGRA**. NIGC = sports bets are Class III
- **Considerations for Indian gaming**: economic and business decisions; regulation and responsible gaming; policy considerations = expand Class II, Protect existing Indian gaming and exclusivity provisions, sovereignty and taxation



Public Safety & Justice / VAWA

- **VAWA 2013** sought to address the high rates of DV against Native women: acknowledged the inherent authority of tribal courts over non-Indians who commit DV on Indian lands.
- 5 Year Report: 18 tribes exercise SDVCJ, 143 arrests, 128 abusers, 74 convictions, 5 acquittals, 24 pending (no habeas)
- *VAWA 2013 authorizations expire 9/30/18*
- **Congress extends VAWA to December 7 (pending)**

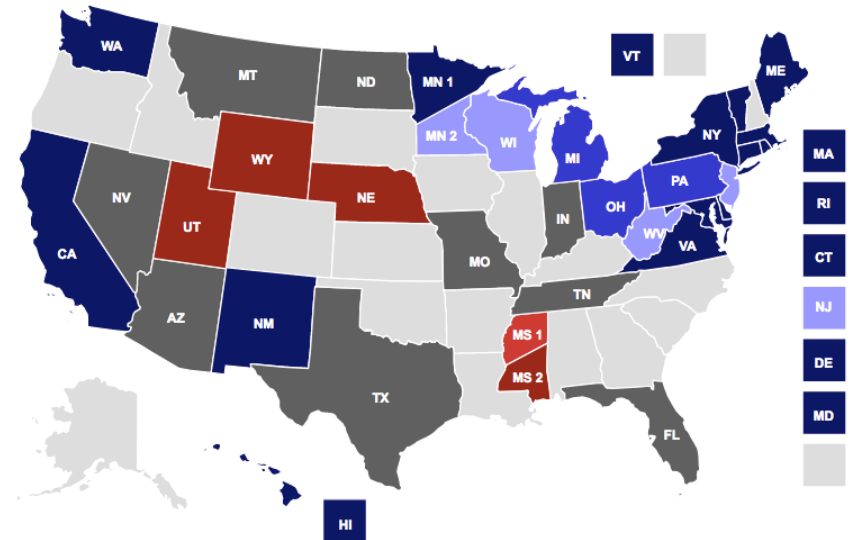
- **VAWA 2019:** will seek to affirm tribal court jurisdiction over additional non-Indian crimes, including child abuse, trafficking, sexual assault & stalking, and assaults on tribal police officers.
- Would establish a federal misdemeanor for violations of tribal court exclusion orders



November Midterm Elections: U.S. Senate

Current makeup of the U.S. House

- 51 Republicans
- 49 Democrats (2 Independents)
- 35 senate seats are up in 2018
- 26 D (including 2 Ind.) + 9 R
- 10 Dem. seats in states Trump won

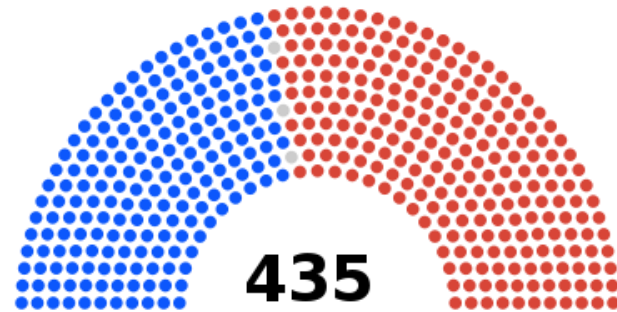


- RCP average shows 9 Senate races rated as “tossups”
- 4 Republican tossups: AZ, NV, TN, TX
- Democrat tossups: FL, IN, MO, MT, ND
- Democrats need to net 2 “pickups” to take control of the Senate

November Midterm Elections: U.S. House

Current makeup of the U.S. House:

- 237 Republicans
- 193 Democrats
- 5 vacancies



Factors Favoring Wave:

- Presidents approval $< 50\%$ lose an avg. of 36 House seats
- Generic ballot polling = Democrats currently +9

X Factors:

- President Trump on the campaign trail?
- Power of the incumbency and a strong national economy

RCP Averages

- 206 Dems safe, likely, or lean vs. 189 Republicans
- 40 seats rated “tossup” = 2 Democrats + 38 Republicans

QUESTIONS

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