

Statement for the Record
of
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Subcommittee for Indigenous Peoples of the United States

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Good afternoon Chairman Gallego, Ranking Member Cook, and Members of the Subcommittee. My name is Jason Freihage and I am the Deputy Assistant Secretary for Management (DAS-M) in the Office of the Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to present this testimony regarding H.R. 1128, a bill which would provide advance appropriations authority for Indian Affairs and Indian Health Service accounts.

Any lapse in appropriations creates challenges within Indian Country. Because of these challenges and the need to meet our trust responsibilities, after the FY 2019 lapse in appropriations, Indian Affairs identified internal lessons learned from our experience, and collected input from Tribes on impacts within their communities. Our goal in these efforts is to ensure we are prepared to address these challenges should there be another lapse in appropriations in the future. We continue to explore all opportunities to improve service delivery during a lapse in appropriations and mitigate impacts on Indian Country as best we can.

To date, the Department received responses to our Tribal Leader letters requesting input on impacts of the FY 2019 lapse in appropriations. The general concerns raised include a need for improved communication from Indian Affairs during the appropriations lapse, curtailing of services and freezing of available funding streams, delays in issuing permits, processing 93-638 contracts, efficiently processing appropriations for self-governance Tribes, conducting environmental impact studies, and processing lease approvals. Other concerns communicated by the Tribes were related to how the appropriations lapse caused Tribes to initiate hiring freezes, suspend travel, cancel participation in important planning meetings, and have a lapse in the emergency protection services they directly provide as a result of funding. The responses also noted financial hardship and disruption of vital Tribal public safety services.

In order to better prepare for a potential lapse in appropriations in the future, Indian Affairs is taking several steps. First, we are developing communications plans, which will allow us to more

consistently engage with Tribes and our staff during an interruption in regular operations. This includes plans to hold regular calls with Tribes at the national and regional levels, developing a website to gather input from Tribes on lapse-related challenges, and better utilizing existing emergency messaging systems to keep employees informed. Second, as a result of our experience last year we are better prepared to quickly allocate funding available under continuing resolutions (CR) to Tribes. Once an interruption in regular operations occurs, we can no longer access funding already made available under a CR, so it is important to get as much of this Tribal funding obligated and in the possession of Tribes before our authority ends. Third, we are working on clarifying guidance for staff regarding critical administrative functions that can be implemented during a shutdown.

Summary of H.R. 1128 and technical review

The intent of H.R. 1128 is to authorize advance appropriations for several covered appropriations accounts of the Bureau of Indian Affairs and Bureau of Indian Education within the Department of the Interior, and the Indian Health Service within the Department of Health and Human Services. The covered accounts in the bill for the Bureau of Indian Affairs and Bureau of Indian Education include Operation of Indian Programs, Contract Support Costs, and the Indian Guaranteed Loan Program Account. The bill also requires the President's budget and the supporting documents submitted to Congress to include detailed estimates related to the advance appropriations.

Technical input on H.R. 1128

The bill would need to be updated to reflect the proposed separation of the Bureau of Indian Education budget from the Bureau of Indian Affairs budget. The FY 2020 President's budget proposed to create a new operating account for the Bureau of Indian Education, called the Operation of Indian Education Programs. To date, the proposed Operation of Indian Education Programs account was incorporated into the House passed FY 2020 Interior and Environment appropriations bill. The new BIE operating account will not go into effect until it is included in an enacted FY 2020 appropriations bill.

Most of the BIE's school operations funding is forward funded which largely shields day-to-day school operations from impacts of appropriation lapses. However, funding for BIE's central administrative activities are subject to annual appropriations, and can only continue under a lapse as long as funding balances are available. After review, it appears forward funding status can coexist alongside advance appropriations. Should this legislation become law, it may be worth revisiting the need to maintain forward funded status of BIE school operations funding once we have more experience with advance appropriations. Given the start-up complexities of transitioning to advance appropriations, any changes in forward funding status should only be considered at a later date.

Management changes needed to implement advance appropriations

Internal adjustments would be necessary to ensure Indian Affairs has the capability to meet the technical requirements for reporting as required in H.R. 1128. Based on research conducted with agencies that currently have advance appropriations authorities, it will be necessary to augment our budget formulation capabilities in order to project budget needs for an additional fiscal year during the President's budget development and to support the appropriations process.

Conclusion

Chairman Gallego, Ranking Member Cook, and Members of the Subcommittee, thank you for the opportunity to testify on H.R. 1128. I would be honored to answer any questions that you may have.