

DOCUMENT RESUME

ED 164 220

RC 011 057

TITLE Report of the Select Committee on Indian Affairs to the National Congress of American Indians (at) Rapid City, South Dakota.

INSTITUTION Congress of the U.S., Washington, D.C. Senate Select Committee on Indian Affairs.

PUB DATE Sep 78

NOTE 7p.

EDRS PRICE MF-\$0.83 HC-\$1.67 Plus Postage.

DESCRIPTORS *American Indians; Child Welfare; Education; *Federal Legislation; Governance; Hawaiians; Land Use; Legal Responsibility; Needs Assessment; Program Evaluation; Religion; *Reservations (Indian); *Self Determination; *Tribes; Water Resources

IDENTIFIERS American Indian Education; *Federal Indian Relationship; *Land Claims; Tribal Government; Tribal Recognition; Trust Responsibility

ABSTRACT

A brief summary of activities of the Senate's Select Committee on Indian Affairs from April 1977 to September 1978 is presented in this report along with a status report on more than 30 of the bills which have been referred to the committee (James Abourezk, chairman). The status report on bills is organized under these headings: jurisdiction and child welfare; jurisdiction--tribal-state relations; education--community colleges; religious freedom; self-determination--consolidated grants; federal administration--program evaluation and needs assessment; Indian claims (statute of limitations; Wichita Tribe claims); eastern land claims (Narragansett; Mashpee Community; Passamaquoddy and Penobscot); Indian trust information protection; water (five Arizona tribes; Ak-Chin Indian community); Arkansas River Bed (Choctaw, Chickasaw, and Cherokee); restoration of tribes to federally recognized status (Siletz, Wyandotte, Ottawa, Modoc, and Peoria); acknowledgement of previously unrecognized tribes (Pascua-Yaqui); Hawaiian natives--education; land transfer legislation (Ely Indian Colony, Zuni, Te-Moak, Paiute and Shoshone of Fallon Indian Reservation, Creek, Cheyenne-Arapaho, Zia Pueblo, Santa Ana Pueblo, and Papago Florence Village); Navajo-Hopi Relocation Commission; committee action of bills before other committees on education (amendments to Indian title of ESEA) and jurisdiction (criminal jurisdiction). (RS)

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September, 1978

REPORT OF THE SELECT COMMITTEE ON INDIAN AFFAIRS TO THE NATIONAL CONGRESS OF AMERICAN INDIANS

RAPID CITY, SOUTH DAKOTA

The Select Committee on Indian Affairs was established on Feb. 4, 1977 and began operations April 1, 1977 when staff and expenditures were authorized by the Senate. The Committee exercises general jurisdiction over Indian affairs for the Senate. Legislation which is specifically related to Indian affairs is referred to the Committee for disposition. Legislation which is national in scope and may affect Indians is not referred to this Committee but Committee staff does track such legislation and we frequently are involved with staff from other Committees in proposing amendments and revisions to protect the interests of the Indian people.

In addition to the general legislative and oversight responsibility the Select Committee is charged with the responsibility of reporting on each of the legislative recommendations submitted by the American Indian Policy Review Commission (AIPRC) in its report to Congress in May of 1977. Among the recommendations in the AIPRC report was a recommendation the Title 25 of the United States Code which contains the majority of the laws governing Indian affairs should be revised and codified. This in itself is a separate project which has been undertaken by the Committee.

The Select Committee's authorization is presently limited to the 95th Congress. Unless the Senate acts to extend this authorization the Committee is scheduled to terminate December 31, 1978 and will become a subcommittee under the Human Resources Committee. By a vote of 7 to 1 the Senate Rules Committee voted to extend the life span of the Select Committee another two years. We are now attempting to secure a Senate vote on this Resolution.

Summary of Activities:

In the year and one-half of this Committee's operation some 89 bills or resolutions have been referred to us for consideration. The Committee favorably reported 42 of these bills, 21 of which have been enacted into law, 9 have passed the Senate and are awaiting action in the House of Representatives, and 12 of which are still awaiting Senate action. Numerous oversight hearings have been held reviewing the administration of the Indian Self-Determination Act, B.I.A. management and reorganization, administration of the Indian Health Service, and the Federal-tribal budget process. In addition Committee staff has had significant involvement in legislation

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before other Committees and has had countless contacts with Executive agencies with respect to specific Indian concerns.

Status of Legislation Referred to Select Committee:

The following is a status report on the more significant bills that have been dealt with this Committee:

Jurisdiction and Child Welfare

S. 1214 (H.R. 12533) The Indian Child Welfare Act. This legislation will statutorily recognize the jurisdiction of tribal courts which has already been recognized by Supreme Court decisions; provide for the transfer of cases from state courts to tribal courts upon application of the parents; provide for tribes in P.L. 83-280 states to reassume jurisdiction over child welfare matters; and provides for tribal administration of programs for family counseling and child support.

S. 1214 passed the Senate November 4, 1977. The House revised the Senate bill and is designated H.R. 12533. H.R. 12533 has been reported out of the Committee on Interior and Insular Affairs on June 21, 1978 and is awaiting enactment by the full House. It is expected to be brought to a vote within the very near future.

Jurisdiction - Tribal-State relations

S. 2502 (H.R. 11489) The Tribal-State Compact Act. This bill sets forth a strong declaration of Congressional support for the continued protection of tribal government. It recognizes that jurisdictional issues exist between tribal and state governments and that resolution of these issues is best effected at the local level based on the mutual consent of both the tribe and the state. It authorizes the Indian tribes and the states to enter into mutual agreements or compacts respecting jurisdiction and government operations in Indian country.

S. 2502 has been reported out of the Select Committee and is awaiting a vote of the Senate. The House equivalent, H.R. 11489, has been reported out of the House Subcommittee on Indian Affairs and must now be submitted to the full Committee on Interior and Insular Affairs. It is doubtful it will be enacted by the House this year.

Education - Community Colleges

S. 1215 The Tribally Controlled Community College Assistance Act. This bill will provide grants to Indian controlled postsecondary education institutions. This bill passed the Senate November 4, 1977. It was reported out of the House Education Committee September 11, 1978 and is now scheduled for a vote of the full House.

Religious Freedom

S. J. Res. 102 The American Indian Religious Freedom Act. This legislation requires the President to direct all Federal agencies to review their policies, practices and regulations in consultation with traditional Indian religious leaders to ascertain practices or laws which infringe upon the right of American Indian and Native Hawaiians in the practice of their religion and report his findings to Congress within one year.

This legislation was approved by the President Aug. 11, 1978. P.L. 95-341

Self-Determination - Consolidated Grants

S. 2460 This bill would amend the Indian Self-Determination and Education Assistance Act to authorize a streamlined procedure for consolidated grants and enable Indian tribes to develop long term community development plans.

This bill was reported out of Committee on Aug. 23, 1978 and is awaiting Senate action. There is no companion bill on the House side.

Federal Administration - Program Evaluation and Needs Assessment

S. 2712 Indian Program Evaluation and Needs Assessment Act. This bill establishes a mechanism for evaluation and coordination of Federal Indian programs administered by various Federal agencies and establishes a system for assessment of the needs of Indian communities.

Hearings were held on S. 2712 on April 17 and 21, 1978. The bill has not been reported out of Committee. Substantial revisions in the original bill have been made. The Committee proposes to prepare a report on this bill to be circulated among the tribes prior to the next session of Congress.

Indian Claims

S. 1377 (H.R. 5023). Amendment of Federal Statute of Limitations. This legislation amended the existing statute of limitations to extend for two years the time in which the United States government may file claims against third parties on behalf of Indian tribes. The statute of limitations now fixes the time in which suit can be filed at April 1, 1980.

Approved August 15, 1977. P.L. 95-103

S. 773 Authorizes the Wichita Indian Tribe of Oklahoma and its affiliated bands and groups of Indians to file with the Indian Claims Commission any of their claims against the United States for lands taken without adequate compensation.

Approved March 21, 1978. P.L. 95-247.

Eastern Land Claims

S. 3153 (H.R. 12860) Settlement of claims of the Narragansett Tribe of the State of Rhode Island. This legislation provides for the acquisition of 900 acres of land by the United States and the contribution of another 900 acres by the State of Rhode Island to be held by a non-profit corporation composed of representatives of the tribe and the state.

S. 3153 passed the Senate July 21, 1978. H.R. 12860 was passed by the House Sept. 12, 1978. The Senate must now act on the House bill and it will be sent to the President for approval this month.

S.J. Res. 86 A bill to extinguish any right, title or interest to land in the Mashpee Community in the State of Massachusetts. Hearings were held October 21, 1977. At mark up in the Committee it appeared that the agreement of the parties had fallen through and that the Township of Mashpee preferred to litigate the case. The claim of the tribe was lost at trial. This bill was not reported out of Committee.

S. 842 A bill to extinguish the claims of the Passamaquoddy and Penobscot Indians to certain lands within the state of Maine. The White House, Department of the Interior and Department of Justice have attempted to negotiate settlement of this dispute. Negotiations have broken down and the Committee now expects legislation to be proposed by the Administration.

Indian Trust Information Protection

S. 2773 The Indian Trust Information Protection Act. This bill would prohibit the release of information held by the United States regarding Indian trust resources and personal data as a consequence of the Federal trust relationship with Indian tribes, and would establish a procedure for obtaining release of such information in appropriate circumstances. The Committee is awaiting receipt of comments from the Executive branch. No hearings have been scheduled on this bill.

Water

S. 905 A bill to provide for the allocation of water among the five central tribes in the State of Arizona and to the State. Hearing held May 23, and 24, 1977. The Administration supported the concept of the bill but proceedings on the legislation were deferred pending the Administration supplying the Committee with a substitute bill. After an on-site visit, the Solicitor of the Department of the Interior concluded that the claims of the five tribes could not be resolved in a single piece of legislation. No alternative legislation has been supplied by the Administration.

S. 1582 (H.R. 8099) This legislation provides for settlement between the United States and the Ak-Chin Indian Community in Arizona of certain water right claims of the community. The bill provides for delivery of additional water to the community to support their agricultural pursuits.

Arkansas River Bed

S. 660 A bill to authorize the Secretary of the Interior to enter into a purchase or lease agreement with the Choctaw, Chickasaw and Cherokee Tribes for the Arkansas River bed in the State of Oklahoma. Passed the Senate June 30, 1977. Hearings were held by the Subcommittee on Indian Affairs in the House and reported to the Full Committee on Interior and Insular Affairs. The full Committee voted to recommit to the Subcommittee.

Restoration of Tribes to Federally Recognized Status

S. 1560 restoring the Confederated Tribes of Siletz Indians in Oregon to Federally recognized status. Approved Nov. 18, 1977. P.L. 95-195

S. 661 restoring the Modoc, Wyandotte, Ottawa and Peoria Tribes in the State of Oklahoma to Federally recognized status. Approved May 15, 1978 P.L. 95-281

Acknowledge of Previously Unrecognized Tribes

S. 2375 (H.R. 13773) A bill to establish an administrative procedure to be followed by the Department of the Interior to acknowledge the existence of certain Indian tribes which have not heretofore been recognized by the United States. Hearings held April 18, 1978. Hearings have also been held on the companion measure on the House side. Neither Committee has reported the bills out. The B.I.A. has promulgated Regulations adopting many of the provisions in these bills.

S. 1633 Extends Federal recognition to the Pascua-Yaqui Tribe of Arizona. This bill has passed both the House and Senate and has been sent to the President for signature.

Hawaiian Natives - Education

S. 857 A bill to amend the Indian Education Act and certain other related education assistance programs to provide assistance to Hawaiian Natives. Reported out of Committee Aug. 23, 1978. Awaiting Senate action.

Land Transfer Legislation

S. 103 Ely Indian Colony. P.L. 95-191

S. 482 Zuni Indian Tribe of New Mexico. P.L. 95-280

S. 667 Te-Moak Bands of Western Shoshone. P.L. 95-133

S. 785

Paiute and Shoshone Tribes of Fallon Indian Reservation. P.L. 95-337

S. 947 Creek Nation of Oklahoma

S. 1291 Cheyenne-Arapaho Tribes of Okla. P.L. 95-327

S. 2358 Pueblo of Zia. Passed Senate Sept. 6, 1978

S. 2588 Santa Ana Pueblo. Passed Senate Sept. 6, 1978

H.R. 8397 Papago Florence Village. Passed House and Senate.
Presented to President for signature Sept. 7, 1978.

Navajo-Hopi Relocation Commission

S. 3043 (H.R. 11092) A bill to amend the Navajo-Hopi Indian Relocation Commission Amendments of 1978. Provides for an increase in the authorization for the operation of the Commission. The House version is limited to an increase in the authorization. The Senate bill as reported out of Committee would establish a Coordinating and Planning Committee. The bill is awaiting action in the Senate. Because of the difference the House and Senate version a conference will have to be scheduled.

Committee Action of Bills before other Committees

Education

S. 1753 (H.R. 15) Amendments to the Indian title of the Elementary and Secondary Education Assistance Act. The Committee staff have worked closely with the Human Resources Committee in the Senate and House Education Committee on the House side to revise amendments to this legislation that had been recommended by those Committees. Both the House and Senate have passed differing versions and the differences will be resolved at Conference.

Jurisdiction

S. 1437 The proposed revision of Title 18 of the United States Code containing the criminal laws of the United States. The Committee staff worked with the staff of the Committee on the Judiciary to insure that existing jurisdiction of Indian tribes was not altered. This bill contains provisions which would allow Indian tribes affected by P.L. 83-280 to reassume criminal jurisdiction within their own reservations. However the House Committee is totally reworking the Senate bill and we do not expect this retrocession to be retained in the House bill. This bill will not become law in this Session of Congress.