Calendar No. 544

104TH CONGRESS, 2d Session | SENATE | REPORT 104–338

TO REAUTHORIZE THE INDIAN ENVIRONMENTAL GENERAL ASSISTANCE PROGRAM ACT OF 1992, AND FOR OTHER PURPOSES

JULY 29, 1996.—Ordered to be printed

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

REPORT

[To accompany S. 1834]

The Committee on Indian Affairs, to which was referred the bill (S. 1834) to reauthorize the Indian Environmental General Assistance Program Act of 1992, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1834 is to amend the Indian Environmental General Assistance Program Act of 1992 (P.L. 102–497, 106 Stat. 3258, 42 U.S.C. 4368b) to authorize such sums as may be necessary to implement the Act.

BACKGROUND

The Indian Environmental General Assistance Program Act was enacted on October 4, 1992 and amended on November 24, 1993 (P.L. 103–155 Stat. 1523) to extend the authorization of the Act to fiscal year 1998. The Indian Environmental General Assistance Program Act authorizes the appropriation of $15,000,000 per fiscal year to the U.S. Environmental Protection Agency (EPA) to award general assistance grants to Indian tribal governments and tribal consortia to enhance their capacity to administer environmental programs on Indian lands.

The Indian Environmental General Assistance Program Act responds to the needs identified by Indian tribes for increased Fed-

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eral assistance to improve environmental protection on Indian lands. The Act authorizes the EPA to award multimedia grants, at a minimum level of $75,000 per year, to Indian tribes to develop the necessary technical, legal and administrative infrastructure for effective environmental regulation. The strength of the General Assistance Program (GAP) is the flexibility provided to Indian tribes to plan and develop a reservation specific approach to environmental protection, consistent with tribally-identified environmental priorities.

Since its enactment, the Congress has appropriated approximately $7.5 million in fiscal year 1994, $8.5 million in fiscal year 1995 and the full authorization level of $15 million in fiscal year 1996 to implement the GAP program. According to estimates by the EPA, approximately 100 of the 557 Federally-recognized Indian tribes have received GAP funding since its enactment. However, the demonstrated need by Indian tribes far exceeds the existing level of funding provided under the Act. Under the current authorization language, EPA has expressed concern that it would not be able to assist the vast majority of Indian tribes in developing environmental programs.

During Committee hearings on the fiscal year 1997 budget, EPA presented testimony to the Committee in favor of amendments to the Act which would authorize greater flexibility to the EPA to implement the Act. The Committee supports the efforts by EPA to strengthen public health and environmental protection in Indian country, consistent with the Federal policies of Tribal Self-Determination and Self-Governance and EPA's 1984 Indian Policy Statement. The Committee notes that the General Assistance Program is regarded by the EPA and Indian tribes as one of the Agency's most effective and successful programs to assist tribal governments in developing environmental programs. The Committee has long recognized that Indian tribal governments are the appropriate authority to manage environmental programs on Indian reservations.

The Committee recognizes that the GAP program represents an important first step in developing tribal environmental regulatory capacity to protect environmental quality on Indian reservations. With GAP grants, Indian tribes are able to develop comprehensive and integrated tribal environmental programs in the areas of solid and hazardous waste management, water quality, air quality, pesticide management or similar multi-media programs. Through the Indian Environmental General Assistance Program, the EPA has assisted Indian tribes across the country, including such states as Maine, Arizona, New York, Mississippi, Alaska, Michigan, Wisconsin, New Mexico, Nebraska, Oklahoma, Washington, South Dakota, Utah, California, and Oregon.

For example, the GAP assistance, several Indian tribes have made significant progress in addressing a variety of environmental problems on Indian lands. Two such tribes have implemented innovative approaches to developing a tribal environmental program. The Penobscot Indian Nation of Maine has established an award-winning Water Resources Program, which is nationally recognized as a highly successful model of State-Tribal-Federal cooperation to protect traditional waterways on the Penobscot watershed. The White Mountain Apache Tribe of Arizona used GAP funding to help

create a Tribal Environmental Planning Office to train tribal personnel in water quality management and develop tribal capacity in solid waste planning and management activities, natural resource management and ecosystem management.

Other Indian tribes have used GAP funding to conduct environmental clean-up activities for existing solid and hazardous waste contamination on their lands. The Mississippi Bank of Choctaw Indians are able to protect their reservation by conducting a variety of environmental monitoring and protection activities such as site assessments, wetlands and mitigation activities and non-point source discharge activities. The Bad River Tribe of Wisconsin has established, as a national pilot project under the GAP, environmental infrastructure to address a multitude of environmental problems on its reservation. Some of the activities conducted under the GAP program include the closure of open dump sites, the establishment of a per-capita recycling program, identification of existing leaking underground storage tanks and investigation of potential Superfund sites. The Hoopa Valley Tribe of California has utilized funding from GAP to identify and address existing hazardous waste sites on its reservation. The tribe was able to identify and package hazardous waste for removal and transportation to a regulated storage facility.

LEGISLATIVE HISTORY

S. 1834 was introduced on June 4, 1996 by Senator McCain for himself and Senators Inouye, Domenici and Simon and was referred to the Committee on Indian Affairs.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In open business session on July 18, 1996, the Committee on Indian Affairs ordered the bill reported with the recommendation that the Senate pass the bill as reported.

SECTION-BY-SECTION ANALYSIS

SECTION 1. REAUTHORIZATION

Section 1 amends Section 502(h) of the Indian Environmental General Assistance Program Act by striking $15,000,000 and inserting in lieu thereof "such sums as may be necessary".

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 1934 as calculated by the Congressional Budget Office is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 26, 1996.

Hon. JOHN MCCAIN,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1834, a bill to reauthorize the Indian Environmental General Assistance Program Act of 1992, and for other purposes,

as ordered reported by the Senate Committee on Indian Affairs on July 18, 1996. The bill would change an existing authorization of appropriations for fiscal years 1997 and 1998 from $15 million a year to such sums as may be necessary.

Because the appropriated level for fiscal year 1996 is $15 million, and the current authorization level for 1997 and 1998 is also $15 million, changing the specified authorization to such sums as may be necessary would allow for increases above the amount provided for 1996. For example, the President requested a total of $28 million for the General Assistance Program (GAP) for fiscal year 1997. CBO has no basis for estimating whether appropriations for GAP would be increased as a result of enacting this bill.

Enacting S. 1834 would not affect direct spending for receipts: therefore, pay-as-you-go procedures would not apply. S. 1834 contains no private-sector or intergovernmental mandates as defined in Public Law 104–4 and would impose no costs on state, local, or tribal governments.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1834 will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The Committee received the following executive communication from the Environmental Protection Agency which is set out as follows:

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, July 16, 1996.

Hon. JOHN MCCAIN,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN MCCAIN: Thank you for your June 21, 1996, letter to Administrator Browner informing her that you have introduced legislation, S. 1834, which would authorize such sums as are necessary to the EPA for awarding multimedia grants to Indian Tribal governments for developing Tribal capacity to establish environmental management programs. In your June 21 letter, you also requested that EPA provide a report to the Committee on Indian Affairs on the current status and implementation of the Indian Environmental General Assistance Program Act of 1992 to assist you in your efforts to move this legislation expeditiously.

I support S. 1834 and I want to work with you and the Congress to strengthen public health and environmental protection in Indian

Country. I am pleased to provide you with the enclosed report. If you have any questions, please do not hesitate to call me.

Sincerely,

ROBERT PERCIASEPE,
Assistant Administrator.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that enactment of S. 1834 will result in the following changes in 42 U.S.C. 4368b(h) with existing language which is to be deleted are in black brackets and the new language which is to be added is in italics:

42 U.S.C. § 4368b(h)

"(h) Authorization

There are authorized to be appropriated *such sums as may be necessary* to carry out the provisions of this section **[**$15,000,000**]** for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998."

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