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Legislative and Policy Update

By Brian Gunn

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Where We Are by the Numbers

- We are in the 2nd session of the 119th Congress
- Republicans control the House of Representatives with a 218-214 majority
 - three vacancies
 - Rep. Mikie Sherrill (D-NJ) resigned Nov. 20, 2025, after being elected Governor of New Jersey
 - Rep. Marjorie Taylor-Green (R-GA) resigned Jan. 5, 2026
 - Rep. Doug LaMalfa (R-CA) died Jan. 6, 2026
- Republicans control the Senate with a 53-47 majority
- Mid-term elections loom in November

Big Picture Outlook

- 243 executive orders, 57 Presidential memoranda, and 128 proclamations signed since inauguration
- Monitoring executive branch developments has consumed most of the energy in the first session of Congress
- Federal workforce reduced by nearly 11 percent in last 12 months



One Year Later: Impact on Tribal Governments

- Executive branch initiatives last year had potential to impact federal programs and personnel that benefit Indian country
 - Reorganizations, agency realignments, hiring freezes
- Most of those initiatives have run their course and not caused widespread disruption to Indian country
- Deferred resignation program resulted in the loss of institutional knowledge
- Unilateral cuts and layoffs to federal employees that serve Indian country have largely been avoided
- HHS Secretary Kennedy by all accounts has protected IHS personnel and functions

FY 2026 Appropriations

- All FY 2026 spending bills signed into law except Department of Homeland Security
- Department of the Interior spending bill signed into law on January 23, 2026
 - Indian programs generally level-funded, with some increases for specific programs and activities
 - \$14.5m overall increase for tribal law enforcement
 - \$66m million of funds for tribal law enforcement officer salaries goes to Oklahoma
 - For IHS, advanced appropriations continue and money for staffing for new facilities fully funded

Indian Related Public Laws in the 119th Congress

- 79 bills signed into law thus far in the 119th Congress
- *Alaska Native Settlement Trust Eligibility Act* (Pub. L. 119-22)
- *Alaska Native Village Municipal Lands Restoration Act of 2025* (Pub. L. 119-23)
- *Lumbee Fairness Act* included in the FY 2026 National Defense Authorization Act (section 8803 of Pub. L. 116-119-60)
- *Wounded Knee Massacre Memorial and Sacred Site Act* (Pub. L. 119-61)
- *Alaska Native Vietnam Era Veterans Land Allotment Extension Act of 2025* (Pub. L. 119-63)
- President Trump vetoed H.R. 504, the *Miccosukee Reserved Area Amendments Act*

Lumbee Fairness Act

- Extends federal recognition to Lumbee Tribe of North Carolina
- Allows Lumbee tribe to acquire land into trust in four North Carolina counties through administrative process
- Provides for the state of North Carolina to maintain criminal and civil jurisdiction
 - Allows for retrocession after two years
- Does not allow for new federal funding for three years after enactment except for funding from New Tribes account at DOI
- Short to mid-term budget impact on other federally recognized tribes likely minimal in the short to near term
 - Most tribes recognized over last 30 years have no tribal shares of BIA or IHS programs

Indian Related Policy Bills

- *Parity for Tribal Law Enforcement Act* (H.R. 4712, S.2452)
 - Would allow tribal law enforcement officers to accrue federal retirement and injury benefits enjoyed by federal law enforcement officers
- *Protect Act* (H.R. 3773, S.1967)
 - Would amend *Stored Communications Act* to add tribal courts as courts of competent jurisdiction for issuing subpoenas to social media and other digital platforms
 - Expands Special Tribal Criminal Jurisdiction to include drug offenses and firearms possession in furtherance of covered crimes

Indian Related Policy Bills (cont'd)

- *PRC Improvement Act*
 - Clarifies that individuals are not responsible for PRC bills under any circumstances, regardless of forms that providers require patients to sign before receiving treatment
 - Requires IHS to reimburse individuals within 30 days when individuals pay PRC bills out-of-pocket to avoid going to collections
 - SCIA hearing this Wednesday
- *Truth and Healing Commission on Indian Boarding School Policy Act (S.761)*
 - Would establish commission to investigate the impacts and ongoing effects of federal Indian boarding school policies

Department of Justice

- DOJ's Office of Legal Counsel issued a legal opinion on the "Constitutionality of Race-Based Department of Education Programs"
- Opinion describes framework on how administration will examine programs that are allegedly "race-based"
- Discusses legal history of Indian preference and membership in Indian tribes being a political classification
 - Distinguishes Native Hawaiians and Pacific islanders
- Opines that some Dept. of Education programs may violate the Equal Protection Clause because they distinguish based on race
 - <https://www.justice.gov/olc/media/1421576/dl> (Dec. 2, 2025)

Prediction Markets

- Kalshi and other services allow people to place wagers on sports, news events, and cultural events
- Prediction markets are regulated by the Commodity Futures Trading Commission (CFTC), an independent federal agency that regulates derivatives markets
- Lawsuits pending across the U.S. allege that business model is, in fact, gambling in violation of federal and state gaming laws, including IGRA
- Issue developing quickly but seems likely to be resolved by the U.S. Supreme Court

Treasury Finalizes Rules

- **General Welfare Exclusion Act Regulations**
 - Implements General Welfare Exclusion Act of 2014
 - Provides deference to tribal decision-making on issues that were previously contentious
 - Prospective enforcement only
 - <https://www.federalregister.gov/documents/2025/12/16/2025-22873/tribal-general-welfare-benefits>
- **Tribal Law Corporations**
 - Confirms that tribally chartered entities not subject to federal income taxation
 - Entities owned by multiple tribes similarly not subject to income taxation
 - <https://www.federalregister.gov/documents/2025/12/16/2025-22874/entities-wholly-owned-by-indian-tribal-governments>

Questions?

Brian Gunn

Brian.Gunn@powerslaw.com

Cell: (202) 746-8419