

TRIBAL OPIOID LEGISLATION - 115TH U.S. CONGRESS (2017-2018)

October 1, 2018

Senate:	Bill Number: Name	Summary	Tribal Set-Aside?	Status	Sponsor	Co-Sponsors	Committee(s)	Committee(s) Chair
1	S.2270 – Mitigating METH Act	Amends 21st Century Cures Act Opioid Grant Program and increases funding from \$500 million to \$525 million. Tribes and Tribal organizations eligible as grantees but no Tribal set-aside. Allows grants to address opioids and/or other substances if determined by State or Tribe to have a substance public health impact.	No	12/21/2017 Introduced and referred to Committee on Health, Education, Labor, and Pensions	Sen. Daines, Steve [R-MT]	Sen. Harris, Kamala D. [D-CA] Sen. Merkley, Jeff [D-OR] Sen. Klobuchar, Amy [D-MN] Sen. Murkowski, Lisa [R-AK] Sen. Baldwin, Tammy [D-WI] Sen. Warren, Elizabeth [D-MA] Sen. McCain, John [R-AZ] Sen. Rounds, Mike [R-SD]	Senate Committee on Health, Education, Labor, and Pensions	Sen. Alexander, Lamar [R-TN]
2	S.2437 – Opioid Response Enhancement Act*	Reauthorizes 21 st Century Cures Act Opioid Grant Program. Allocates 50% of each FY funding to 10 states and Tribes of greatest need. Includes Tribal set-aside of 10% of each FY funding.	Yes	2/15/2018 Introduced and referred to Committee on Health, Education, Labor, and Pensions	Sen. Baldwin, Tammy [D-WI]	Sen. Shaheen, Jeanne [D-NH] Sen. Smith, Tina [D-MN] Sen. Heitkamp, Heidi [D-ND] Sen. Brown, Sherrod [D-OH] Sen. Hassan, Margaret Wood [D-NH] Sen. Manchin, Joe, III [D-WV] Sen. Warren, Elizabeth [D-MA] Sen. Klobuchar, Amy [D-MN] Sen. Stabenow, Debbie [D-MI] Sen. Nelson, Bill [D-FL] Sen. King, Angus S., Jr. [I-ME] Sen. Cardin, Benjamin L. [D-MD] Sen. Tester, Jon [D-MT] Sen. Kaine, Tim [D-VA] Sen. Udall, Tom [D-NM]	Senate Committee on Health, Education, Labor, and Pensions	Sen. Alexander, Lamar [R-TN]
3	S.2545 - Native Behavioral Health Access Improvement Act of 2018*	Establishes a Special Behavioral Health Program for Indians (similar to Special Diabetes Program for Indians) through the Indian Health Service. Addresses mental and	Yes (IHS)	3/14/2018 Introduced and referred to Senate Committee of Indian Affairs	Sen. Tina Smith[D-MN]	Sen. Udall, Tom [D-NM] Sen. Tester, Jon [D-MT] Sen. Cortez Masto, Catherine [D-NV] Sen. Warren, Elizabeth [D-MA]	SCIA	Sen. Hoeven, John [R-ND]

TRIBAL OPIOID LEGISLATION - 115TH U.S. CONGRESS (2017-2018)

October 1, 2018

		behavioral health needs and substance use disorders of eligible beneficiaries served by IHS, Tribal and Urban Indian programs.				Sen. Heitkamp, Heidi [D-ND]		
4	S.2680- Opioid Crises Response Act of 2018*	Reauthorizes and amends the 21 st Century Cures Act to address state and Indian tribes' responses to the opioid abuse crisis. It addresses FDA regulations on addictive/ non-addictive pain products and OUD treatment and recovery, and prevention. The Secretary will consult with Tribes on the appropriate mechanism for reporting information to the Congress as required by states. The SAMHSA Tribal Training and Technical Center shall assist Tribes. \$500 million is authorized to be appropriated for each of fiscal years 2019 -2021. The Tribal set-aside is 5% per year.	Yes	4/16/18 Introduced and referred to the Senate Committee on Health, Education, Labor, and Pensions 5/07/2018 Placed on Senate Legislative Calendar under General Orders	Sen. Lamar Alexander (R-TN)	Sen. Murray, Patty [D-WA]* Sen. Isakson, Johnny [R-GA] Sen. Cassidy, Bill [R-LA] Sen. Heller, Dean [R-NV] Sen. Manchin, Joe, III [D-WV] Sen. Baldwin, Tammy [D-WI] Sen. Kaine, Tim [D-VA] Sen. Heitkamp, Heidi [D-ND] Sen. Capito, Shelley Moore [R-WV] Sen. Jones, Doug [D-AL] Sen. Murkowski, Lisa [R-AK] Sen. Hatch, Orrin G. [R-UT] Sen. Smith, Tina [D-MN] Sen. Collins, Susan M. [R-ME] Sen. Rubio, Marco [R-FL] Sen. Casey, Robert P., Jr. [D-PA] Sen. McCaskill, Claire [D-MO]		Sen. Lamar Alexander (R-TN)
5	S. 2700 - Comprehensive Addiction Resources Emergency Act of 2018*	To provide funding through the Office of National Drug Control Policy to States, territories, Tribal nations (10% set-aside), and local areas affected by the opioid epidemic. Governmental and public or private nonprofit entities may provide for the development, organization, coordination, and operation of more effective and cost efficient systems for the delivery of essential services ranging from detox, inpatient	Yes	4/18/18 Introduced and referred to the Senate Committee on Health, Education, Labor, and Pensions	Sen. Elizabeth Warren (D-MA)	(Co-sponsors not listed)	Senate Committee on Health, Education, Labor, and Pensions	Sen. Alexander, Lamar [R-TN]

TRIBAL OPIOID LEGISLATION - 115TH U.S. CONGRESS (2017-2018)

October 1, 2018

		treatment and harm reduction to individuals with opioid use disorder.						
House:								
6	H.R. 6 - Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act or SUPPORT for Patients and Communities Act	<p>Establishes a 54 month demonstration project under CMS, AHRQ and SAMHSA to increase substance abuse provider capacity under the Medicaid program. A State Plan (or Waiver) shall indicate needed treatment and recovery services, including withdrawal management and maintenance treatment to improve provider reimbursement capacity. Activities include addressing neonatal abstinence syndrome, pregnant women, infants, adolescents and AIAN Medicaid enrollees. A Drug Management Program for At-Risk Beneficiaries will be established on January 1, 2020 with selected health care providers and pharmacies.</p> <p>The amended bill includes reauthorization of the State Targeted Response Grants. The grants now include a 5% tribal set-aside (\$50 million per year). Further CDC, pursuant to a written request, assist Tribes collect and report data.</p>	No	<p>House Energy and Commerce 06/13/2018</p> <p>House Ways and Means 06/13/2018</p> <p>House Judiciary 06/13/2018</p> <p>The bill passed the House of Representatives on 6/22/18 by a vote of 396-14.</p> <p>The amended bill passed the House of Representatives by a vote of 393-8, on 9/28/18. It now heads to the Senate for a final vote.</p>	Rep. Greg Walden (R-OR-2)	<p>Rep. Pallone, Frank, Jr. [D-NJ-6]* Rep. Brady, Kevin [R-TX-8]*</p> <p>Rep. Neal, Richard E. [D-MA-1]*</p> <p>Rep. Roe, David P. [R-TN-1]*</p> <p>Rep. Shuster, Bill [R-PA-9]*</p> <p>Rep. Foxx, Virginia [R-NC-5]*</p> <p>Rep. Goodlatte, Bob [R-VA-6]*</p> <p>Rep. Walz, Timothy J. [D-MN-1]*</p> <p>Rep. DeFazio, Peter A. [D-OR-4]*</p> <p>Rep. Burgess, Michael C. [R-TX-26]*</p> <p>Rep. Kuster, Ann M. [D-NH-2]</p> <p>Rep. Sessions, Pete [R-TX-32]</p> <p>Rep. Guthrie, Brett [R-KY-2]</p> <p>Rep. Sinema, Kyrsten [D-AZ-9]</p> <p>Rep. MacArthur, Thomas [R-NJ-3]</p>		<p>Rep. Greg Walden (R-OR2)</p> <p>Rep. Kevin Brady (R-TX-8)</p> <p>Rep. Bob Goodlatte (R-VA-6)</p>
7	H.R.4899 – Access to	Establishes SAMHSA grant program for treatment of heroin,	No	1/30/2018 Introduced and referred to	Rep. Matt Cartwright [D-PA-17]	Rep. Payne, Donald M. Jr [D-NJ-10]	House Committee on	Rep. Greg Walden [R-OR-02]

TRIBAL OPIOID LEGISLATION - 115TH U.S. CONGRESS (2017-2018)

October 1, 2018

	Substance Abuse Treatment Act of 2018	opioids, cocaine, method, ecstasy, PCP. Funds can be used for increase of treatment facilities and services to underserved populations. Tribal governments eligible as grantees but no Tribal set-aside.		Committee on Energy and Commerce; 2/2/2018 Referred to Subcommittee on Health		Rep. Norton, Eleanor Holmes [D-DC-At Large] Rep. Lujan Ben Ray [D-NM-3] Rep. Shea-Porter, Carol [D-NH-1] Rep. Hastings, Alcee L. [D-FL-20] Rep. Ryan, Tim [D-OH-13]	Energy and Commerce (E&C) ---- E&C Subcommittee on Health	---- Rep. Burgess, Michael [R-TX-26]
8	H.R.5124/S.2636 – Community Action Opioid Response Act of 2018*	Establishes a grant program under the HHS Office of Community Services for Community Action Agencies to address the opioid epidemic for low-income families and individuals in crisis. Authorizes \$50 million. Set-aside of 7% of each FY funding for Tribes and Tribal organization that receive direct payments under section 677 of Community Services Block Grant Act	Yes	2/27/2018 Introduced and referred to House Committee on Education and the Workforce 4/10/18 Introduced and referred to the Senate Committee on Health, Education, Labor, and Pensions	H.R. 5124 - Rep. Betty McCollum [D-MN-4] S.2636 – Sen. Susan Collins (R-ME)	Rep. Smucker, Lloyd [R-PA-16] Rep. Tenney, Claudia [R-NY-22] Sen. Amy Klobuchar (D-MN)	House Committee on Education and the Workforce --- Senate Committee on Health, Education, Labor, and Pensions	Rep. Fox, Virginia [R-NC-5] --- Sen. Alexander, Lamar [R-TN]
9	H.R.5140 – Tribal Addiction and Recovery Act of 2018	Amends 21 st Century Cures Act Opioid Grant Program. Increases funding from \$500 million to \$525 million. Amends the State Response to the Opioid Abuse Crisis to improve AI/AN health. Tribes and Tribal organizations eligible as grantees, but there’s no Tribal set-aside. Act addresses prescription drug abuse, use of other addictive substances and includes mental health services.	No	3/1/2018 Introduced and referred to Committee on Energy and Commerce; 3/2/2018 Referred to Subcommittee on Health	Rep. Markwayne Mullin [R-OK-2]	Rep. Gianforte, Greg [R-MT-At Large] Rep. Cole, Tom [R-OK-4]	House Committee on Energy and Commerce (E&C) ---- E&C Subcommittee on Health	Rep. Greg Walden [R-OR-02] ---- Rep. Burgess, Michael [R-TX-26]
10	H.R.5797 - Individuals in Medicaid Deserve Care that is	Temporarily allows states to apply to CMS to receive federal Medicaid payment for services provided in institutions for mental diseases	No	5/15/2018 Introduced and referred to the House Energy and Commerce Committee	Rep. Mimi Walters (R-CA-45)	Rep. Knight, Stephen [R-CA-25]* Rep. Guthrie, Brett [R-KY-2]* Rep. Blackburn, Marsha [R-	House Energy and Commerce (E&C) Committee	Rep. Greg Walden [R-OR-02]

TRIBAL OPIOID LEGISLATION - 115TH U.S. CONGRESS (2017-2018)

October 1, 2018

	Appropriate and Responsible in its Execution Act or the IMD CARE Act	(IMDs) and for other medically necessary services for enrollees (ages 21 to 64) with opioid use disorders. Services may be covered for a total of up to 30 days in a 12-month period for an eligible enrollee. Current law generally prohibits federal payment under Medicaid for services provided in IMDs for individuals under the age of 65 (although states may receive payment through certain mechanisms, such as through a Medicaid demonstration waiver).		and the Senate Finance Committee 6/12/2018 Adopted by the House Energy and Commerce Committee The bill passed the House of Representatives on 6/20/18 by a vote of 261-155.		TN-7] Rep. Walden, Greg [R-OR-2] Rep. Hill, J. French [R-AR-2]	---- Senate Finance Committee	Sen. Orrin Hatch (R-UT)
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DETAILED DESCRIPTION OF OPIOID LEGISLATION - 115TH U.S. CONGRESS (2017-2018)

U.S. Senate:

S.2437 – Opioid Response Enhancement Act

- Reauthorizes the 21st Century Cures Act’s Opioid Grant Program from 2019 through 2023 and decreases funding from \$500,000,000 annually to \$400,000,000.
- Includes Tribal entities as eligible grantees of the Opioid Grants Program to carry out public health related activities such as: improving state prescription drug monitoring programs; implementing prevention activities, and evaluating such activities to identify effective strategies to prevent opioid abuse; training for health care practitioners, such as best practices for prescribing opioids, pain management, recognizing potential cases of substance abuse, referral of patients to treatment programs, and overdose prevention; supporting access to health care services, including those provided by a Federally certified opioid treatment programs or other appropriate health care providers to treat substance use disorders; or other public health-related activities, as the state of Tribal entity determines appropriate to addressing the opioid abuse crisis within the state or Tribal entity.
- Allocates 50 percent of the annual funds in each fiscal year to award Targeted Response Enhancement Grants to at least 10 States and Tribal entities, of greatest need as indicated by higher mortality rates associated with opioid overdoses, to expand and enhance prevention, treatment, and recovery support efforts in States and Tribal entities hardest hit by the opioid epidemic. Sets aside funding each fiscal year of not less than 10% of funding to be provided to Tribal entities of the Opioid Grant Program.

S.2545 – Native Behavioral Health Access Improvement Act of 2018

- Establishes a Special Behavioral Health Program for Indians (SBHPI) to address mental and behavioral health needs and substance use disorders in Tribal communities by offering services through Indian Health Facilities (i.e. Indian Health Services, an Indian health program operated by a Tribe or Tribal organization, or an urban Indian health program)
- Authorizes \$150,000,000 annually for each fiscal year starting 2018 through 2022.
- SBHPI would be modeled after the Special Diabetes Program for Indians and would allow Tribes to develop solutions that incorporate traditional and cultural practices into evidence-based prevention, treatment, and recovery programs. Requires grant reporting standards be developed in consultation with Tribes and provides Tribes with technical assistance needed to develop programs and meet grant requirements.
- In 2017, the National Indian Health Board recommended the establishment of a SBHPI that parallels the structure of the Special Diabetes Program for Indians to address substance abuse prevention, intervention, and other needed behavioral health needs for Tribal communities.

S.2270 – Mitigating METH Act (Mitigating the Methamphetamine Epidemic and Promoting Tribal Health Act

TRIBAL OPIOID LEGISLATION - 115TH U.S. CONGRESS (2017-2018)

October 1, 2018

- Amends the 21st Century Cures Act's Opioid Grant Program by increasing funding from \$500,000,000 to \$525,000,000 and is inclusive of Indian Tribes and Tribal Organizations.
- Permits grants to be used for the prevention and treatment of other substances such as methamphetamine, if the substance is determined by the State or Tribe to have a substantial public health impact.
- Fails to reauthorize the program past 2018 and fails to set aside Tribal specific funding.

S.2680- Opioid Crises Response Act of 2018

- Reauthorizes and amends the 21st Century Cures Act to address state and Indian tribes' responses to the opioid abuse crisis.
- It addresses FDA regulations on addictive/ non-addictive pain products and OUD treatment and recovery, and prevention.
- The Secretary will consult with Tribes on the appropriate mechanism for reporting information to the Congress as required by states.
- The SAMHSA Tribal Training and Technical Center shall assist Tribes.
- \$500 million is authorized to be appropriated for each of fiscal years 2019 -2021. The Tribal set-aside is 5% per year.

S.2700 - Comprehensive Addiction Resources Emergency Act of 2018

- Awards grants to eligible counties that can demonstrate that the rate of drug overdose deaths per 100,000 individuals residing in the county during the most recent 3-year period for which such data are available was not less than the rate of such deaths for the county that ranked at the 67th percentile of all counties, as determined by the Secretary.
- An eligible local area shall establish or designate a substance use disorder treatment and services planning council to guide the delivery of the program that may offer recovery and support services, harm reduction services, affordable health insurance coverage, harm reduction services and includes that substance use disorder treatment services may be provided to incarcerated individuals.
- The Secretary, acting through the Indian Health Service shall use 10 percent of the amount available for each fiscal year to provide formula grants to Indian tribes disproportionately affected by substance use in an amount determined pursuant to a formula and eligibility criteria developed by the Secretary in consultation with Indian tribes.

U.S. House of Representatives:

H.R.6 – Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act or SUPPORT for Patients and Communities Act

- Modifies provisions related to coverage for juvenile inmates and former foster care youth.
- Establishes a demonstration project to increase provider treatment capacity for substance use disorders.
- Requires the establishment of drug management programs for at-risk beneficiaries.
- Establishes drug review and utilization requirements.
- Extends the enhanced federal matching rate for expenditures regarding substance use disorder health home services.
- Temporarily requires coverage of medication-assisted treatment.
- Establishes a Drug Management Program for At-Risk Beneficiaries on January 1, 2020 to involve selected health care providers and pharmacies.
- Includes Medicare provisions to encourage the use of non-opioid analgesics for post-surgical pain, the inclusion of a review of opioid prescriptions in the “Welcome to Medicare Initial Exam and a requirement of e-prescribing for coverage of Part D controlled substances.

H.R.4899 – Access to Substance Abuse Treatment Act of 2018

- Establishes a grant program for treatment of heroin, opioids, cocaine, methamphetamine, 3,4,-methylenedioxymethamphetamine (ecstasy), and phencyclidine (PCP). Funds may be used for activities such as: increase the availability of treatment facilities; provide treatment services to underserved populations; and provide wrap around services to affected individuals.
- Prioritizes grant distribution for programs that serve communities with high substance abuse addiction.
- Includes Tribal governments as eligible grantees but fails to set aside Tribal specific funding.

H.R.5124/S.2636 – Community Action Opioid Response Act of 2018 (S.2636, a companion bill introduced in the Senate)

TRIBAL OPIOID LEGISLATION - 115TH U.S. CONGRESS (2017-2018)

October 1, 2018

- Establishes a grant program that enables Community Action Agencies to respond to the needs of communities and low-income families and individuals in crisis resulting from opioid addiction epidemic. Funds may be used for activities such as: public education campaigns; outreach and referral; direct services for prevention, treatment, and recovery; stabilization services for effected individuals and their families; and services to address and mitigate the impact of opioid addiction on children in the household.
- Authorizes \$50,000,000 annually for each fiscal year starting 2018 through 2022.
- Sets aside funding each fiscal year, not more than 7 percent of funding each fiscal year, for grants to Tribes or Tribal organizations that receive direct payments under section 677 of the Community Services Block Grant Act.

H.R.5140– Tribal Addiction and Recovery Act of 2018

- Amends the 21st Century Cures Act’s Opioid Grant Program by increasing funding from \$500,000,000 to \$525,000,000 and is inclusive of Indian Tribes and Tribal Organizations.
- Permits grants to be used for the prevention and treatment of prescription drug abuse and the use of other addictive substances (e.g. alcohol, heroin, methamphetamine), including mental health services.
- Fails to reauthorize the program past 2018 and fails to set aside Tribal specific funding.

H.R.5797 - Individuals in Medicaid Deserve Care that is Appropriate and Responsible in its Execution Act or the IMD CARE Act

- Amends 1960’s era law, known as the "IMD exclusion," that prohibits Medicaid from paying for inpatient treatment at facilities with more than 16 beds that was intended to discourage institutionalization.
- Current regulations allow some exceptions that may be approved by the Center for Medicare and Medicaid Services (CMS) through a Medicaid demonstration waiver.
- Allows states to apply to receive federal Medicaid payment for services provided in institutions for mental diseases (IMDs) and for other medically necessary services for enrollees (aged 21 to 64) with opioid use disorders.
- Services may be covered for a total of up to 30 days in a 12-month period for an eligible enrollee.

**S.2437, S.2636, S 2680, S.2700 and H.R.5124 contain Tribal Set-Aside language. S.2545 provides direct funding to Indian Health Service.*

Inter Tribal Council of Arizona

10/01/18