

# **NCUIH Secures Huge Wins for Urban Indians in Final Enacted COVID-19 and Omnibus Bills**

Category: Policy Blog

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## **Policy Update: NCUIH Secures Huge Wins for Urban Indians in Final Enacted COVID-19 and Omnibus Bills**

*The bills include a \$5 million increase for urban Indian health, FTCA, VA-IHS reimbursements, SDPI extension and COVID-19 renovation funds for UIOs.*

On December 27, the "[Consolidated Appropriations Act, 2021](#)" (H.R. 133), consisting of a COVID-19 pandemic relief bill and an omnibus spending bill for Fiscal Year (FY) 2021 was signed into law. Due to the tireless advocacy by NCUIH and UIOs, there are many monumental wins for urban Indian health. Throughout the year, NCUIH assisted with facilitating over 25 calls for UIOs with federal agencies and held over 100 meetings with Congress. NCUIH representatives testified in over 13 Congressional hearings to advocate for the many long-standing priorities that were included in the final package.

**Your advocacy and participation in the federal government process was critical to the adoption of the most robust urban Indian health provisions in over 50 years.**

## **Short Overview**

In summary, the package included the following National Council for Urban Indian Health (NCUIH) priorities for Urban Indian Organizations (UIOs):

- **\$62.7 million for Urban Indian Health in FY21, a \$5 million increase from FY20**
- **\$1 million to conduct an infrastructure study for facilities run by UIOs**
  - NCUIH is working with IHS Office of Urban Indian Health Programs now to review the next steps on the study.
- **Reimbursement from the United States Department of Veterans Affairs (VA) to UIOs for urban Native veterans' health**
  - In 2010, the VA issued a MOU stating that all Indian Health Care Providers were eligible for reimbursement for services to Native veterans. NCUIH has fought tooth and nail with the Administration on their narrow interpretation of this MOU to be exclusive of UIOs. This legislation now expressly affirms that the VA must reimburse UIOs for services provided to veterans.
- **FTCA Coverage for UIOs**
  - For over 20 years, FTCA coverage for UIOs has been a top priority and finally, for the first time ever, UIOs will no longer have to pay for costly insurance coverage for health providers. This will save a single UIO up to \$250,000 annually!

The package provides the following for IHS, Tribal organizations and UIOs:

- **\$210 million from CDC to IHS to I/T/U for COVID-19 vaccine distribution and**

## **administration**

- NCUIH requested a minimum of 5% set-aside for I/T/U and \$210 million is equal to 4.67%.
- **Funds “may be used for grants for the construction, alteration, or renovation of non-Federally owned facilities to improve preparedness and response capability” related to COVID-19, which was confirmed by IHS on January 5, 2021. IHS explained that they are exploring alternative mechanisms including IHCA Contracts for UIOs to use the funds related to facility improvements from the \$210 million. NCUIH will advocate that UIOs should be eligible for this funding through IHCA contracts. We will continue to monitor and follow up with IHS as more information becomes available.**
- **\$790 million to IHS for I/T/U for necessary expenses for testing, contact tracing, surveillance, containment, and mitigation**
  - **These funds must be made available within 21 days: January 17, 2021.**
  - **On a UIO leaders call with IHS on January 5, 2021, IHS stated that UIOs are eligible to use these funds for the “rent, lease, purchase, acquisition, construction, alteration, renovation, or equipping of non-federally owned facilities to improve coronavirus preparedness and response capability.”**
- Extends SDPI through FY2023 at current levels (\$150 million annually)
- \$125 million set aside for I/T/U in funding for Substance Abuse and Mental Health Services Administration (SAMHSA)
- \$15 million to make payments under the National Health Service Corps loan repayment program
- Obesity prevention and reduction programs in consultation with Indian Tribes, Tribal organizations, and urban Indian organizations
- Establish “Sec. 330n. Expanding Capacity for Health Outcomes” in Title 3 of the Public Health Service Act to include Indian Tribes, Tribal organizations, and urban Indian organizations

## **Next Steps**

- NCUIH submitted Urban Confer comments regarding the COVID-19 relief supplemental to IHS on Friday, January 8, 2021 and will continue to work with IHS on the UIO infrastructure study.

## **Analysis**

### **Urban Indian Health**

- \$62.7 million for Urban Indian Health in FY21, a \$5 million increase from FY20
- \$1 million to conduct an infrastructure study for facilities run by UIOs
- FTCA Coverage for UIOs (H.R. 6535/S. 3650)
  - Note: This bill was also enacted on January 5, 2021, in addition to being included in the package.
- Urban Native Veterans Health Access Act
  - Reimbursement from VA to UIOs for urban Native veterans’ health

## **Indian Health Service**

- \$6.236 billion in agency funding for IHS in FY21
  - ~\$189 million over the FY2020 enacted level

### **Facilities**

- \$58 million to IHS for costs for accreditation emergencies and supplementing activities funded under the heading “Indian Health Facilities”
- \$72.28 million for the Indian Health Facilities account

### **105(l) Leases**

- \$101 million indefinite appropriation
  - Does not include restrictive language based on square footage

## **Health and Human Services (HHS)**

### **IHS / Tribal Facilities / Urban Indian Organizations (UIOs)**

- National Health Service Corps
  - \$15 million to Indian Health Service facilities, Tribally Operated Health Programs, and Urban Indian Health Programs to make payments under the National Health Service Corps loan repayment program
- Good Health and Wellness in Indian Country (GHWIC)
  - \$22 million in funding for the Good Health and Wellness in Indian Country (GHWIC) program
- Minority HIV/AIDS Prevention and Treatment Program
  - \$1.5 million Tribal set-aside under the Minority HIV/AIDS Prevention and Treatment Program

### **HRSA**

#### **Native Hawaiian Health Care**

- \$20.5 million (minimum) for the Native Hawaiian Health Care Program

## **COVID-19 Response**

### **CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)**

- \$8.75 billion for CDC-wide activities and program support to prevent, prepare for, and respond to coronavirus, domestically or internationally

### **IHS / Tribal Facilities / Urban Indian Organizations (UIOs)**

- \$210 million shall be allocated to IHS to be distributed through IHS directly operated programs, Tribes and Tribal organizations, and UIOs to plan, prepare for, promote, distribute, administer, monitor, and track coronavirus vaccines to ensure broad-based distribution access and vaccine coverage

- Funds “may be used for grants for the construction, alteration, or renovation of non-Federally owned facilities to improve preparedness and response capability” related to COVID-19, which was confirmed by IHS on January 5, 2021.

## **Tribal Use of Prescription Drug Monitoring Programs (PDMP)**

- “CDC is directed to work with the Indian Health Service to ensure Federally-operated and tribally operated healthcare facilities benefit from the CDC’s PDMP efforts”

## **VA-TAC**

- The final bill also outlines concerns with the Tribal Advisory Committee (TAC), noting in the explanatory statement that “The agreement directs the Director, in consultation with the TAC, to develop written guidelines for each CDC center, institute, and office on best practices around delivery of Tribal technical assistance and consideration of unique Tribal public health needs. The goal of such guidelines should be the integration of Tribal communities and population needs into CDC programs. The Director shall report on the status of development of these written guidelines in the fiscal year 2022 Congressional Justification”.
  - Note: The TAC includes UIOs

## **SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA)**

- \$4.25 billion to provide increased mental health and substance abuse services and support

### **IHS / Tribal Facilities / Urban Indian Organizations (UIOs)**

- \$125 million (minimum) set aside for I/T/U under SAMHSA for mental/behavioral health

### **Medication-Assisted Treatment for Prescription Drug and Opioid Addiction**

- \$11,000,000 for grants to Indian Tribes, Tribal Organizations, or consortia. The agreement directs SAMHSA to ensure grants allow the use of medication-assisted treatment and other clinically appropriate services to achieve and maintain abstinence from all opioids, including programs that offer low-barrier or same day treatment options.
  - Note: UIOs are not specified, though a [2018 NOFO](#) did list UIOs as eligible

## **PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND**

### **IHS / Tribal Facilities / Urban Indian Organizations (UIOs)**

- \$790 million to I/T/U for necessary expenses for testing, contact tracing, surveillance, containment, and mitigation
  - IHS stated that UIOs are eligible to use these funds for the “rent, lease, purchase, acquisition, construction, alteration, renovation, or equipping of non-federally owned facilities to improve coronavirus preparedness and response capability.”
  - Funds available until September 30, 2022
  - Includes language authorizing transfer of funds to IHS
  - Requires funds to be dispersed within 21 days
  - Requires Tribes, states and other funding recipients to update their plans within 60 days

of receiving funds

## **SPECIAL DIABETES PROGRAM FOR INDIANS (SDPI)**

- Extends SDPI through FY2023 at current levels (\$150 million annually)
  - Includes language reaffirming the existing protections against balance billing of AI/ANs under Indian Health Care Improvement Act and requirement that inpatient hospitals accept the Medicare-Like Rate as “payment in full” when contracting with IHS/Tribes under Purchased/Referred Care

## **GUIDE ON EVIDENCE-BASED STRATEGIES FOR OBESITY PREVENTION PROGRAMS**

### **IHS / Tribal Facilities / Urban Indian Organizations (UIOs)**

- Obesity prevention and reduction programs in consultation with Indian Tribes, Tribal organizations, and urban Indian organizations

## **BROADBAND CONNECTIVITY GRANTS**

- \$1 billion for the Department of Commerce’s Assistant Secretary of Communications and Information to expand broadband, remote learning, telework, and telehealth access and adoption by grants to the following qualifying entities:
  - Tribal governments; Tribal Colleges or Universities; Tribal Organizations; Alaska Native Corporations, or the Department of Hawaiian Homelands (*Does Not Include UIOs*)

## **PUBLIC HEALTH PROVISIONS**

### **Public Health Service Act**

- Establish “Sec. 330n. Expanding Capacity for Health Outcomes” in Title 3 of the Public Health Service Act to develop a program for eligible entities to expand the use of technology-enabled collaborative learning and capacity building models, to improve retention of health care providers, and increase access to health care services in rural areas, frontier areas, health professional shortage areas, or medically underserved areas and for medically underserved populations or Native Americans.
  - Eligible entities include Indian Tribes, Tribal organizations, and urban Indian organizations
  - Authorizes \$10,000,000 for each of fiscal years 2022 through 2026 to carry out this section

The full legislative text of the entire year-end package can be found [here](#)

The Explanatory Statement (Report) for FY2021 Interior (Division G) can be found [here](#)

The Explanatory Statement (Report) for FY2021 LHHS (Division H) can be found [here](#)

<b>Topic</b>	<b>Section</b>	<b>Funding</b>	<b>Language</b>
Urban Indian Health	Urban Indian Health	\$62,684,000	1. : See chart for language
	UIO Infrastructure Study	\$1,000,000	1. : “\$1,000,000 is provided to conduct an infrastructure study for facilities run by urban Indian organizations (UIOs)”
	FTCA	-	1. : See chart for language
	IHS-VA MOU - reimbursement from VA to UIOs who provide services to AI/AN veterans	-	1. : “Section 405 of the Indian Health Care Improvement Act (25 U.S.C. 1645) is amended— (1) in subsection (a)(1), by inserting ‘urban Indian organizations,’ before ‘and tribal organizations’; and (2) in subsection (c)— (A) by inserting ‘urban Indian organization,’ before ‘or tribal organization’; and (B) by inserting ‘an urban Indian organization,’ before ‘or a tribal organization’.”
	IHS funding	\$6,236,279,000	1. : “The bill provides a total of \$6,236,279,000 for the Indian Health Service (IHS)”
Indian Health Service (IHS)	Costs for accreditation emergencies and supplementing activities funded under the heading “Indian Health Facilities”	\$58,000,000	1. : “That of the funds provided, \$58,000,000 shall be for costs related to or resulting from accreditation emergencies, including supplementing activities funded under the heading “Indian Health Facilities,” of which up to \$4,000,000 may be used to supplement amounts otherwise available for Purchased/Referred Care
	Indian Health Care Improvement Fund	\$72,280,000	1. : “Provided further, That of the funds provided, \$72,280,000 is for the Indian Health Care Improvement Fund and may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account”
	105(l) leases indefinite appropriation	\$101,000,000	1. : “The bill includes language establishing an indefinite appropriation for payment of Tribal leases under section 105(1) of the Indian Self-Determination and Education Assistance Act, which are estimated to be \$101,000,000 in fiscal year 2021.”

Health and Human Services	NHSC Loan Repayment Program	\$15,000,000	1. : “That, within the amount made available in the previous proviso, \$15,000,000 shall remain available until expended for the purposes of making payments under the NHSC Loan Repayment Program under section 338B of the PHS Act to individuals participating in such program who provide primary health services in Indian Health Service facilities, Tribally-Operated 638 Health Programs, and Urban Indian Health Programs”
	Good Health and Wellness in Indian Country	\$22,000,000	1.
	Minority HIV/AIDS Prevention and Treatment Program	\$1,500,000	1. : “The agreement includes \$1,500,000 as a Tribal set-aside within the Minority HIV/ AIDS Prevention and Treatment program.”
	HRSA— Hawaiian Health Care Program	\$20,500,000	1. “Native Hawaiian Health Care. -The agreement includes no less than \$20,500,000 for the Native Hawaiian Health Care Program.”

COVID-19 Response	CDC COVID-19 Response	\$8,750,000,000	1. : “For an additional amount for ‘CDC-Wide Activities and Program Support’, \$8,750,000,000, to remain available until September 30, 2024, to prevent, prepare for, and respond to coronavirus, domestically or internationally”
	CDC to IHS to I/T/U for COVID	\$210,000,000	1. : “That of the amount in the preceding proviso, \$210,000,000, shall be transferred to the ‘Department of Health and Human Services—Indian Health Service—Indian Health Services’ to be allocated at the discretion of the Director of the Indian Health Service and distributed through Indian Health Service directly operated programs and to tribes and tribal organizations under the Indian Self-Determination and Education Assistance Act and through contracts or grants with urban Indian organizations under title V of the Indian Health Care Improvement Act” <a href="#">Pgs. 1822-1823</a> : “That amounts appropriated under this heading in this Act may be used for grants for the construction, alteration, or renovation of non-Federally owned facilities to improve preparedness and response capability at the State and local level.”
	SAMHSA— Heath Surveillance and Program Support	\$4,250,000,000	1. : “For an additional amount for ‘Heath Surveillance and Program Support’, \$4,250,000,000, to prevent, prepare for, and respond to coronavirus, domestically or internationally”
	Set aside for I/T/U in funding for SAMHSA	\$125,000,000	1. : “That from within the amount appropriated under this heading in this Act in the previous provisos, a total of not less than \$125,000,000 shall be allocated to tribes, tribal organizations, urban Indian health organizations, or health or behavioral health service providers to tribes”
	Medication-Assisted Treatment for Prescription Drug and Opioid Addiction	\$11,000,000	1. “Medication-Assisted Treatment for Prescription Drug and Opioid Addiction.- Within the amount, the agreement includes \$11,000,000 for grants to Indian Tribes, Tribal Organizations, or consortia. The agreement directs SAMHSA to ensure grants allow the use of medication-assisted treatment and other clinically appropriate services to achieve and maintain abstinence from all opioids, including programs that offer low-barrier or same day treatment options.”



Public Health and Social Services Emergency Fund	IHS to I/T/U for testing, contact tracing, surveillance, containment, and mitigation	\$790,000,000	<p>1. : “That of the amount appropriated under this paragraph in this Act, \$790,000,000, shall be transferred to the ‘Department of Health and Human Services—Indian Health Service—Indian Health Services’ to be allocated at the discretion of the Director of the Indian Health Service and distributed through Indian Health Service directly operated programs and to tribes and tribal organizations under the Indian Self-Determination and Education Assistance Act and through contracts or grants with urban Indian organizations under title V of the Indian Health Care Improvement Act” Pg. 1840: “That funds an entity receives from amounts described in the first proviso in this paragraph may also be used for the rent, lease, purchase, acquisition, construction, alteration, renovation, or equipping of non-federally owned facilities to improve coronavirus preparedness and response capability at the State and local level”</p>
Special Diabetes Program for Indians (SDPI)	SDPI	Extends SDPI through FY2023 at current levels	<p>1. : “(a) TYPE I.—Section 330B(b)(2)(D) of the Public Health Service Act (42 U.S.C. 254c-2(b)(2)(D)) is amended by striking ‘2020, and \$32,465,753 for the period beginning on October 1, 2020, and ending on December 18, 2020’ and inserting ‘2023’. (b) INDIANS.—Section 330C(c)(2)(D) of the Public Health Service Act (42 U.S.C. 254c-3(c)(2)(D)) is amended by striking ‘2020, and \$32,465,753 for the period beginning on October 1, 2020, and ending on December 18, 2020’ and inserting ‘2023’.”</p>
Guide on Evidence-Based Strategies for Public Health Department Obesity Prevention Programs	Obesity prevention and reduction programs in consultation with Indian Tribes, Tribal organizations, and urban Indian organizations	Creation of a guide of evidence-based strategies	<p>1. : “The Secretary of Health and Human Services (referred to in this section as the “Secretary”), acting through the Director of the Centers for Disease Control and Prevention, not later than 2 years after the date of enactment of this Act, may— develop a guide on evidence-based strategies for State, territorial, and local health departments to use to build and maintain effective obesity prevention and reduction programs, and, in consultation with Indian Tribes, Tribal organizations, and urban Indian organizations”</p>

Broadband Connectivity Grants	Tribal Broadband	\$1,000,000,000	1. : “There is appropriated to the Assistant Secretary, out of amounts in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2021, to remain available until expended— (1) \$1,000,000,000 for grants under subsection 15 (c)” [...] “(c) TRIBAL BROADBAND CONNECTIVITY PROGRAM.— (1) TRIBAL BROADBAND CONNECTIVITY GRANTS.—The Assistant Secretary shall use the funds made available under subsection (b)(1) to implement a program to make grants to eligible entities to expand access to and adoption of— (A) broadband service on Tribal land; (B) remote learning, telework, or telehealth resources during the COVID-19 pandemic.”
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Public Health Provisions	Title 3 of the Public Health Service Act is amended by inserting Sec. 330N	\$10,000,000	<p>1. : “Title III of the Public Health Service Act is amended by inserting after section 330M (42 U.S.C. 254c-19) the following: SEC. 330N. EXPANDING CAPACITY FOR HEALTH OUTCOMES. (a) DEFINITIONS. —In this section: (1) ELIGIBLE ENTITY. —The term ‘eligible entity’ means an entity that provides, or supports the provision of, health care services in rural areas, frontier areas, health professional shortage areas, or medically underserved areas, or to medically underserved populations or Native Americans, including Indian Tribes, Tribal organizations, and urban Indian organizations [...] (b) PROGRAM ESTABLISHED.—The Secretary shall, as appropriate, award grants to evaluate, develop, and, as appropriate, expand the use of technology-enabled collaborative learning and capacity building models, to improve retention of health care providers and increase access to health care services, such as those to address chronic diseases and conditions, infectious diseases, mental health, substance use disorders, prenatal and maternal health, pediatric care, pain management, palliative care, and other specialty care in rural areas, frontier areas, health professional shortage areas, or medically underserved areas and for medically underserved populations or Native Americans. [...] (k) AUTHORIZATION OF APPROPRIATIONS. —There are authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2022 through 2026.”</p>
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