

TRIBAL SCHOOL FEDERAL INSURANCE PARITY ACT

SEPTEMBER 15, 2020.—Ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,  
submitted the following

R E P O R T

[To accompany H.R. 895]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 895) to allow tribal grant schools to participate in the Federal Employee Health Benefits program, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 895 is to allow tribal grant schools to participate in the Federal Employee Health Benefits program.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 895 amends the Indian Health Care Improvement Act<sup>1</sup> (IHCA) to specifically authorize Indian tribes and tribal organizations operating under the Tribally Controlled Schools Act of 1988<sup>2</sup> (TCGSA) to access the Federal Employee Health Benefits (FEHB) program.

Prior to 2010, tribal employers generally lacked access to FEHB benefits for their employees. In 2010, with the passage of the Patient Protection and Affordable Care Act, Congress authorized tribes and tribal organizations that utilize Indian Self-Determina-

<sup>1</sup>Pub. L. No. 94-437, 90 Stat. 1400 (1976), <https://uscode.house.gov/statviewer.htm?volume=90&page=1400> (codified as amended at 25 U.S.C. §§ 1601 *et seq.*, [https://uscode.house.gov/table3/94\\_437.htm](https://uscode.house.gov/table3/94_437.htm)) (statutory compilation as amended through P.L. 115-91 at <https://www.govinfo.gov/content/pkg/COMPS-1406/pdf/COMPS-1406.pdf>).

<sup>2</sup>Pub. L. No. 100-297, tit.V, pt. B, 102 Stat. 130, 385 (1988), <https://uscode.house.gov/statviewer.htm?volume=102&page=385> (codified as amended at 25 U.S.C. §§ 2501-11, [https://uscode.house.gov/table3/100\\_297.htm](https://uscode.house.gov/table3/100_297.htm)) (statutory compilation as amended through P.L. 107-110 at <https://www.govinfo.gov/content/pkg/COMPS-759/pdf/COMPS-759.pdf>).

tion and Education Assistance Act<sup>3</sup> (ISDEAA) programs, and certain urban Indian organizations, to participate in the FEHB program.<sup>4</sup> Currently all schools operated by the Bureau of Indian Education (BIE) participate in FEHB, as well as four BIE-funded tribally operated schools that operate pursuant to the ISDEAA. However, this eligibility was not extended to tribally controlled schools that operate pursuant to the TCGSA. This exclusion has resulted in significant financial strains on those 126 schools, as well as difficulty in recruiting quality educators.

Passage of H.R. 895 will remove this disparity and ensure that employees of tribally controlled schools have access to the FEHB program.

#### COMMITTEE ACTION

H.R. 895 was introduced on January 30, 2019, by Representative Dusty Johnson (R–SD). The bill was referred to the Committee on Natural Resources, and in addition to the Committee on Oversight and Reform and the Committee on Energy and Commerce. Within the Natural Resources Committee, the bill was referred to the Subcommittee for Indigenous Peoples of the United States. On July 16, 2019, the Subcommittee held a hearing on the bill. On January 15, 2020, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

On May 15, 2020, the House of Representatives passed H.R. 6800, the Heroes Act, which included the text of H.R. 895 as Title II of Division S (text as engrossed in the House on May 15, 2020).

#### HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 895: legislative hearing by the Subcommittee for Indigenous Peoples of the United States held on July 16, 2019.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of

<sup>3</sup>Pub. L. No. 93–638, 88 Stat. 2203 (1975), <https://uscode.house.gov/statviewer.htm?volume=88&page=2203> (codified as amended at various, see [https://uscode.house.gov/table3/93\\_638.htm](https://uscode.house.gov/table3/93_638.htm)) (statutory compilation as amended through P.L. 114–95 at <https://www.govinfo.gov/content/pkg/COMPS-10401/pdf/COMPS-10401.pdf>).

<sup>4</sup>Patient Protection and Affordable Care Act, Pub. L. No. 111–148, tit. X, subtitle B, pt. III, 124 Stat. 119, 935 (2010), <https://uscode.house.gov/statviewer.htm?volume=124&page=935> (codified as amended at various, see [https://uscode.house.gov/table3/111\\_148.htm](https://uscode.house.gov/table3/111_148.htm)) (statutory compilation as amended through P.L. 116–136 at <https://www.govinfo.gov/content/pkg/COMPS-9307/pdf/COMPS-9307.pdf>); see 25 U.S.C. § 1647b.

the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

<b>H.R. 895, Tribal School Federal Insurance Parity Act</b>			
As ordered reported by the House Committee on Natural Resources on January 15, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The Affordable Care Act, Public Law 111–148, allows certain Indian tribes, tribal organizations, and urban Indian organizations to purchase health insurance through the Federal Employees Health Benefits (FEHB) program for their employees. The Office of Personnel Management administers the program, but the tribes or tribal organizations purchase the insurance for their employees and must pay at least 70 percent of the premium. The employees pay the rest.

H.R. 895 would allow tribal grant schools (as defined by the Tribally Controlled Schools Act of 1988) to participate in that arrangement. Because premiums for FEHB health insurance would be paid for by the schools and their employees, enacting the bill would not affect federal spending or revenues.

On May 28, 2019, CBO transmitted a cost estimate for S. 279, the Tribal School Federal Insurance Parity Act, as ordered reported by the Senate Committee on Indian Affairs on May 15, 2019. The two pieces of legislation are identical, and CBO's estimate of their budgetary effects is the same.

The CBO staff contact for this estimate is Lori Housman. The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of Rule XIII, the general performance goals and objectives of this bill are to allow tribal grant schools to participate in the Federal Employee Health Benefits program.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

## UNFUNDED MANDATES REFORM ACT STATEMENT

This bill contains no unfunded mandates.

## EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that this legislation does not relate to access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. The Committee finds that the legislation's provisions relating to the terms and conditions of employment do not relate to the legislative branch and instead relate to tribal grant schools.

## PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

**INDIAN HEALTH CARE IMPROVEMENT ACT**

\* \* \* \* \*

**TITLE IV—ACCESS TO HEALTH SERVICES**

\* \* \* \* \*

**SEC. 409. ACCESS TO FEDERAL INSURANCE.**

Notwithstanding the provisions of title 5, United States Code, Executive order, or administrative regulation, an Indian tribe or tribal organization carrying out programs under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the *Tribally Controlled Schools Act of 1988* (25 U.S.C. 2501 et seq.) or an urban Indian organization carrying out programs under title V of this Act shall be entitled to purchase coverage, rights, and benefits for the employees of such Indian tribe or tribal organization, or urban Indian organization, under chapter 89 of title 5, United States Code, and chapter 87 of such title if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian tribe or tribal organization, or urban Indian organization, are currently deposited in the applicable Employee's Fund under such title.

\* \* \* \* \*

## COMMITTEE CORRESPONDENCE

ONE HUNDRED SIXTEENTH CONGRESS

CAROLYN B. MALONEY  
CHAIRWOMANJIM JORDAN, OHIO  
RANKING MINORITY MEMBER**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

2157 BAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

February 12, 2020

The Honorable Raul Grijalva  
Chairman  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, D.C. 20515

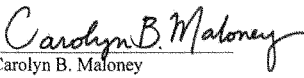
Dear Mr. Chairman:

I am writing to you concerning H.R. 895, the "Tribal School Federal Insurance Parity Act." There are certain provisions in the legislation which fall within the Rule X jurisdiction of the Committee on Oversight and Reform.

In the interest of permitting your Committee to proceed expeditiously on this bill, I am willing to waive this Committee's right to sequential referral. I do so with the understanding that by waiving consideration of the bill, the Committee on Oversight and Reform does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction. I request that you urge the Speaker to name Members of this Committee to any conference committee which is named to consider such provisions.

Please place this letter into the Congressional Record during consideration of the measure on the House floor. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective Committees.

Sincerely,



Carolyn B. Maloney  
Chairwoman

cc: The Honorable Jim Jordan, Ranking Member  
Committee on Oversight and Reform

The Honorable Rob Bishop, Ranking Member  
Committee on Natural Resources

RAÚL M. GRIJALVA OF ARIZONA  
CHAIRMAN

DAVID WATKINS  
STAFF DIRECTOR

ROB BISHOP OF UTAH  
RANKING REPUBLICAN

FARISH BRADEN  
REPUBLICAN STAFF DIRECTOR

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

September 1, 2020

The Honorable Carolyn Maloney  
Chair  
Committee on Oversight and Reform  
U.S. House of Representatives  
2157 Rayburn House Office Building  
Washington, DC 20515

Dear Chair Maloney:

I write to acknowledge your letter dated February 12, 2020 stating that the Committee on Oversight and Reform will forgo formal consideration of H.R. 895, the "Tribal School Federal Insurance Parity Act."

The Committee on Natural Resources confirms our mutual understanding that your Committee does not waive any jurisdiction over the subject matter contained in this or similar legislation. Additionally, the Committee on Natural Resources confirms our mutual understanding that the Committee on Oversight and Reform will be appropriately consulted and involved as the bill or similar legislation moves forward so that you may address any remaining issues within your Rule X jurisdiction. I am pleased to support your request to name members of the Committee on Oversight and Reform to any conference committee to consider such provisions.

I will ensure that this exchange of letters is included in the *Congressional Record* as part of the committee report for H.R. 895. I appreciate your cooperation regarding this legislation and look forward to working with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva  
Chair  
House Natural Resources Committee

Cc: The Honorable Nancy Pelosi, Speaker of the House  
The Honorable Thomas J. Wickham, Jr., Parliamentarian  
The Honorable Rob Bishop, Ranking Member  
The Honorable Jim Jordan, Ranking Member

RAÚL M. GRIJALVA OF ARIZONA  
CHAIRMAN

DAVID WATKINS  
STAFF DIRECTOR

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

ROB BISHOP OF UTAH  
RANKING REPUBLICAN

PAULSH BRADEN  
REPUBLICAN STAFF DIRECTOR

April 16, 2020

The Honorable Frank Pallone Jr.  
Chair  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington D.C. 20515

Dear Chair Pallone

I write to you concerning H.R. 895 the, "Tribal School Federal Insurance Parity Act."

I appreciate your willingness to work cooperatively on this legislation. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Energy and Commerce. I acknowledge that your Committee will not formally consider H.R. 895 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill that fall within your Committee's Rule X jurisdiction.

I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva  
Chair  
House Natural Resources Committee

Cc: The Honorable Rob Bishop, Ranking Member  
The Honorable Thomas J. Wickham Jr., Parliamentarian

FRANK PALLONE, JR., NEW JERSEY  
CHAIRMAN

GREG WALDEN, OREGON  
RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3841

September 15, 2020

The Honorable Raúl M. Grijalva  
Chairman  
Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, DC 20515

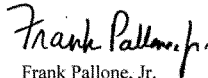
Dear Chairman Grijalva:

I write concerning H.R. 895, the "Tribal Schools Federal Insurance Parity Act," which was additionally referred to the Committee on Energy and Commerce (Committee).

In recognition of the desire to expedite consideration of H.R.895, the Committee agrees to waive formal consideration of the bill as to provisions that fall within the Rule X jurisdiction of the Committee. The Committee takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that the Committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. I also request that you support my request to name members of the Committee to any conference committee to consider such provisions.

Finally, I would appreciate the inclusion of this letter into the *Congressional Record* during floor consideration of H.R. 895.

Sincerely,



Frank Pallone, Jr.  
Chairman



The Honorable Raúl M. Grijalva  
September 15, 2020  
Page 2

cc. The Honorable Nancy Pelosi, Speaker  
The Honorable Steny Hoyer, Majority Leader  
The Honorable Greg Walden, Ranking Member, Committee on Energy and Commerce  
The Honorable Rob Bishop, Ranking Member, Committee on Natural Resources  
The Honorable Thomas J. Wickham, Parliamentarian

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS  
None.

