

made by the Secretary under this title, the Secretary shall have the burden of proof of demonstrating by a preponderance of the evidence—

“(1) the validity of the grounds for the decision; and

“(2) the consistency of the decision with the requirements and policies of this title.

“SEC. 416. APPLICATION OF OTHER PROVISIONS.

“Section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512; 104 Stat. 1959), shall apply to compacts and funding agreements entered into under this title.

“SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary to carry out this title.”.

TITLE II—INDIAN SELF-DETERMINATION

SEC. 201. DEFINITIONS; REPORTING AND AUDIT REQUIREMENTS; APPLICATION OF PROVISIONS.

(a) DEFINITIONS.—

(1) IN GENERAL.—Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304) is amended by striking subsection (j) and inserting the following:

“(j) ‘self-determination contract’ means a contract entered into under title I (or a grant or cooperative agreement used under section 9) between a Tribal organization and the appropriate Secretary for the planning, conduct, and administration of programs or services that are otherwise provided to Indian Tribes and members of Indian Tribes pursuant to Federal law, subject to the condition that, except as provided in section 105(a)(3), no contract entered into under title I (or grant or cooperative agreement used under section 9) shall be—

“(1) considered to be a procurement contract; or

“(2) except as provided in section 107(a)(1), subject to any Federal procurement law (including regulations);”.

(2) TECHNICAL AMENDMENTS.—Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), as amended by paragraph (1), is further amended—

(A) in subsection (e), by striking “‘Indian tribe’ means” and inserting “‘Indian tribe’ or ‘Indian Tribe’ means”; and

(B) in subsection (l), by striking “‘tribal organization’ means” and inserting “‘Tribal organization’ or ‘tribal organization’ means”.

(b) REPORTING AND AUDIT REQUIREMENTS.—Section 5 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5305) is amended—

(1) in subsection (b)—

(A) by striking “after completion of the project or undertaking referred to in the preceding subsection of this section” and inserting “after the retention period for the report that is submitted to the Secretary under subsection (a)”;

(B) by adding at the end the following: “The retention period shall be defined in regulations promulgated by the Secretary pursuant to section 413.”; and

(2) in subsection (f)(1), by inserting “if the Indian Tribal organization expends \$500,000 or more in Federal awards during such fiscal year” after “under this Act.”.

(c) EFFECTIVE DATE.—The amendment made by subsection (b)(2) shall not take effect until 14 months after the date of enactment of this Act.

(d) APPLICATION OF OTHER PROVISIONS.—Sections 4, 5, 6, 7, 102(c), 104, 105(a)(1), 105(f), 110, and 111 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304, 5305, 5306, 5307, 5321(c), 5323, 5324(a)(1), 5324(f), 5331, and 5332) and section 314 of the Depart-

ment of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512; 104 Stat. 1959), apply to compacts and funding agreements entered into under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5361 et seq.).

SEC. 202. CONTRACTS BY SECRETARY OF THE INTERIOR.

Section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5321) is amended—

(1) in subsection (c)(2), by striking “economic enterprises” and all that follows through “except that” and inserting “economic enterprises (as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452)), except that”; and

(2) by adding at the end the following:

“(f) GOOD FAITH REQUIREMENT.—In the negotiation of contracts and funding agreements, the Secretary shall—

“(1) at all times negotiate in good faith to maximize implementation of the self-determination policy; and

“(2) carry out this Act in a manner that maximizes the policy of Tribal self-determination, in a manner consistent with—

“(A) the purposes specified in section 3; and

“(B) the PROGRESS for Indian Tribes Act.

“(g) RULE OF CONSTRUCTION.—Subject to section 101(a) of the PROGRESS for Indian Tribes Act, each provision of this Act and each provision of a contract or funding agreement shall be liberally construed for the benefit of the Indian Tribe participating in self-determination, and any ambiguity shall be resolved in favor of the Indian Tribe.”.

SEC. 203. ADMINISTRATIVE PROVISIONS.

Section 105 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5324) is amended—

(1) in subsection (b), in the first sentence, by striking “pursuant to” and all that follows through “of this Act” and inserting “pursuant to sections 102 and 103”; and

(2) by adding at the end the following:

“(p) INTERPRETATION BY SECRETARY.—Except as otherwise provided by law, the Secretary shall interpret all Federal laws (including regulations) and Executive orders in a manner that facilitates, to the maximum extent practicable—

“(1) the inclusion in self-determination contracts and funding agreements of—

“(A) applicable programs, services, functions, and activities (or portions thereof); and

“(B) funds associated with those programs, services, functions, and activities;

“(2) the implementation of self-determination contracts and funding agreements; and

“(3) the achievement of Tribal health objectives.

“(q)(1) TECHNICAL ASSISTANCE FOR INTERNAL CONTROLS.—In considering proposals for, amendments to, or in the course of, a contract under this title and compacts under titles IV and V of this Act, if the Secretary determines that the Indian Tribe lacks adequate internal controls necessary to manage the contracted program or programs, the Secretary shall, as soon as practicable, provide the necessary technical assistance to assist the Indian Tribe in developing adequate internal controls. As part of that technical assistance, the Secretary and the Tribe shall develop a plan for assessing the subsequent effectiveness of such technical assistance. The inability of the Secretary to provide technical assistance or lack of a plan under this subsection shall not result in the re-assumption of an existing agreement, contract, or compact, or declination or rejection of a new agreement, contract, or compact.

“(2) The Secretary shall prepare a report to be included in the information required

for the reports under sections 405(b)(1) and 514(b)(2)(A). The Secretary shall include in this report, in the aggregate, a description of the internal controls that were inadequate, the technical assistance provided, and a description of Secretarial actions taken to address any remaining inadequate internal controls after the provision of technical assistance and implementation of the plan required by paragraph (1).”.

SEC. 204. CONTRACT FUNDING AND INDIRECT COSTS.

Section 106(a)(3) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325(a)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking “, and” and inserting “; and”; and

(B) in clause (ii), by striking “expense related to the overhead incurred” and inserting “expense incurred by the governing body of the Indian Tribe or Tribal organization and any overhead expense incurred”; and

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

“(B) In calculating the reimbursement rate for expenses described in subparagraph (A)(ii), not less than 50 percent of the expenses described in subparagraph (A)(ii) that are incurred by the governing body of an Indian Tribe or Tribal organization relating to a Federal program, function, service, or activity carried out pursuant to the contract shall be considered to be reasonable and allowable.”.

SEC. 205. CONTRACT OR GRANT SPECIFICATIONS.

Section 108 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5329) is amended—

(1) in subsection (a)(2), by inserting “subject to subsections (a) and (b) of section 102,” before “contain”; and

(2) in subsection (f)(2)(A)(ii) of the model agreement contained in subsection (c), by inserting “subject to subsections (a) and (b) of section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5321),” before “such other provisions”; and

(3) in subsection (b)(7)(C) of the model agreement contained in subsection (c), in the second sentence of the matter preceding clause (i), by striking “one performance monitoring visit” and inserting “two performance monitoring visits”.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL WORKFORCE DEVELOPMENT MONTH

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 632 and the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 632) designating September 2018 as “National Workforce Development Month.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be

agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 632) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of September 18, 2018, under "Submitted Resolutions.")

SICKLE CELL DISEASE AWARENESS MONTH

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 661, submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 661) expressing support for the designation of September 2018 as "Sickle Cell Disease Awareness Month" in order to educate communities across the United States about sickle cell disease and the need for research, early detection methods, effective treatments, and preventative care programs with respect to sickle cell disease, complications from sickle cell disease, and conditions related to sickle cell disease.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 661) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

CAMPUS FIRE SAFETY MONTH

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 662, submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 662) designating September 2018 as "Campus Fire Safety Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 662) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

ORDER OF PROCEDURE

Mr. McCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the consideration of the House message to accompany H.R. 6, the opioids bill. I further ask consent that the majority leader or his designee be recognized to make a motion to concur; that there be up to 4 hours of debate on the motion, equally divided in the usual form; and that following the use or yielding back of that time, the Senate vote on the motion to concur with no further intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF BRETT KAVANAUGH

Mr. McCONNELL. Mr. President, for the information of all of our colleagues, there were two very significant developments today.

This morning, the Judiciary Committee reported out Judge Kavanaugh favorably. All 11 Republican members of the Judiciary Committee voted in favor of reporting him out with a favorable recommendation. No. 2, we will shortly move to proceed to the Kavanaugh nomination, and I am pleased to announce that all 51 Republican Members of the Senate support the motion to proceed to the nomination. One hundred percent of the Republican conference supports proceeding to the Kavanaugh nomination.

Now, in committee, they reviewed the most pages of documents ever produced pertaining to any Supreme Court nomination—literally, hundreds of judicial opinions from his tenure on the Court of Appeals for the DC Circuit and 5 days of hearings during which Judge Kavanaugh testified for nearly 40 hours. Judge Kavanaugh testified on every topic, from complicated legal subjects to sensitive personal matters, and there were statements and testimony from countless personal friends, classmates, coworkers, former clerks, and other associates.

So the picture that has emerged from all of this is clear: Judge Kavanaugh is one of the most qualified and most impressive Supreme Court nominees in the history of our country.

He has excelled at the highest levels of legal scholarship. He holds two degrees from Yale and, for years, has lectured at Harvard Law School. He has issued more than 300 legal opinions from what is widely considered the second highest court in the Nation. Several have subsequently been cited in

the Supreme Court's own majority opinions. Along the way, he has built an outstanding reputation within the legal community for his clear and thoughtful writing and his exemplary, fairminded judicial temperament.

Judge Kavanaugh's qualifications have been affirmed by his peers and by renowned legal scholars from across the ideological spectrum. One self-described liberal Democrat who advised him at Yale Law School said that Judge Kavanaugh "commands wide and deep respect among scholars, lawyers, and jurists."

This praise has been echoed by hundreds of character witnesses who have testified before the Senate or written us letters to praise Judge Kavanaugh's personal character and his integrity in the strongest terms.

The committee has also thoroughly investigated the last-minute allegations that have been brought forward. The evidence that has been produced either fails to corroborate these accusations or, in fact, support Judge Kavanaugh's unequivocal denial, and, in some cases, the accusers have even recanted their baseless allegations.

All in all, this is a nominee who has received what many have considered the gold standard of judicial qualification—a rating of unanimously "well qualified" from the American Bar Association.

So this is a nomination that deserves to move forward, and that is precisely what is happening.

I commend our colleagues on the committee for sending this impressive nominee here to the floor with a favorable recommendation.

Now we will keep the process moving. The full Senate will begin consideration of Judge Kavanaugh's nomination today.

SPORTS MEDICINE LICENSURE CLARITY ACT OF 2017

Mr. McCONNELL. Mr. President, I understand the Senate has received a message from the House to accompany H.R. 302.

The ACTING PRESIDENT Pro Tempore. The Senator is correct.

Mr. McCONNELL. I move that the Chair lay before the Senate the message to accompany H.R. 302.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, that the House agree to the amendment of the Senate to the bill (H.R. 302) entitled "An Act to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State," with an amendment to the Senate amendment.

MOTION TO CONCUR

Mr. McCONNELL. I move to concur in the House amendment to the Senate amendment.