



2120 L Street, NW, Suite 700
Washington, DC 20037

T 202.822.8282
F 202.296.8834

HOBBSSTRAUS.COM

March 9, 2012

GENERAL MEMORANDUM 12-038

Bipartisan Bill to Authorize Tribes to Directly Request Disaster Declaration Advances; Secretary of Homeland Security Announces New Tribal Resource Guide

On March 8, 2012, the House Transportation and Infrastructure Committee voted to approve HR 2903, the FEMA Reauthorization Act of 2011, which contains a provision for Indian tribes to directly request a declaration of a disaster from the President rather than making this request indirectly through a state government. This provision has bipartisan support in the House of Representatives and the Obama Administration. It has not yet been considered by the Senate. On March 9, Janet Napolitano, Secretary of the Department of Homeland Security (DHS), addressed the National Congress of American Indians echoing the President's support for the provision in HR 2903 and announcing the availability of a new *Tribal Resource Guide* on the agency's website.

Previously (on March 1), the House Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and Emergency Management marked up the bill. At the markup, Subcommittee Chairman Denham (R-CA) offered an amendment in the nature of the substitute. This amendment included much of Congressman Rahall's (D-WV) tribal specific bill (HR 1953) to provide for Indian tribes to directly request a declaration of a disaster from the President. The substitute amendment was agreed to by voice vote.

To provide perspective on the significance of this provision, one should note that under current law tribes must request that a disaster be declared through the state government. This not only flies in the face of the government-to-government relationship, but has led to delays in emergency assistance reaching affected tribes. Federal resources available cannot be released until a disaster has been officially declared by the President. The intent of the Rahall bill was to ensure that tribes have quick, direct access to federal assistance following a natural disaster. Inclusion of this language in the amendment offered by Chairman Denham signaled bipartisan support for the measure.

Additional language included in HR 1953 dealing with waivers on cost sharing for tribes did not make it into the Denham substitute because it would have caused a score to the bill which would have then required spending offsets. However, the full Committee agreed to an amendment offered by Congressman Rahall, which would ensure that tribes are eligible for any cost sharing waivers or adjustments that are otherwise made available to state and local governments.

HR 2309 provides for the reauthorization of the Federal Emergency Management Agency at current funding levels and would reauthorize the Dam Safety Program. Additionally, it includes a new provision that would modernize the Integrated Public Alert and Warning System (IPAWS) and integrate "comprehensive and periodic" IPAWS training for state, local and tribal officials into the current National Incident Management System (NIMS).

The DHS's newly released *Tribal Resources Guide* was developed through the agency's Office of Intergovernmental Affairs to highlight some of the resources available to tribes including links to training; publications; guidance; alerts; newsletters; programs; and services. The DHS has indicated that this document is designed to be a "living document" that is regularly updated. The *Tribal Resource Guide* is available for download at the following link: <http://www.dhs.gov/files/publications/tribal-resource-guide.shtm>

Please let us know if we may provide additional information regarding the FEMA Reauthorization Act of 2011 or the Department of Homeland Security's new *Tribal Resource Guide*.

###

Inquiries may be directed to:

Geoff Strommer (gstrommer@hobbsstrauss.com)

Marie Howard (mhoward@hobbsstrauss.com)

Moriah K. O'Brien (mobrien@hobbsstrauss.com)