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TRIBAL SOVEREIGN IMMUNITY IN JEOPARDY

Ada E. Deer, Assistant Secretary for Indian Affairs, condemned a provision in the Department of the Interior's Appropriations bill reported out on Friday, July 18, by the Senate Appropriations Subcommittee on Interior. Section 120 of the bill would require a tribal government to waive its sovereign immunity before the tribe could receive Tribal Priority Account (TPA) funds. TPA funds are used by tribal governments to provide services to Indian children, the elderly and families, such as child protection, education benefits, and family support services. These funds are for many tribes the sole source of funds available to provide governmental services for their tribal members.

"I strongly oppose any amendment to the 1998 Interior Appropriations Bill which would diminish or extinguish Tribal sovereign immunity. This amendment, which provides for the waiver of tribal sovereign immunity is tantamount to termination of the tribe's governmental status." Ms. Deer, said. "This amendment flies in the face of longstanding federal policy, law, and federal courts' interpretation of treaties with American Indian Tribes."

During the formative years of the United States, the federal government recognized American Indian tribal governments as independent nations vested with all inherent powers of a sovereign nation. The recognition of Indian tribal sovereignty has remained a fundamental tenet of Federal Indian Policy. More than 160 years ago the United States Supreme Court re-affirmed this principle in ***Worcester v. Georgia***, 31 U.S. (6 Pet.) 515 (1832) when Chief Justice Marshall noted that [the dependent status of Indian tribal governments] does not strip them of their inherent sovereignty. This U.S. Supreme Court ruling has never been overturned and is currently the law of the land.

"The provision, waiving Indian tribal sovereign immunity in federal courts would create internal havoc within the 554 tribal entities presently federally recognized by allowing tribal members to circumvent tribal forums. Lawsuits by third parties also would place a tremendous burden on tribes and expose them to financial ruin. I have experienced the ravaging affects of termination first hand because my tribe - the Menominee Indian Tribe of Wisconsin - was terminated in the 1950s. Our people and tribal government were devastated. The Congress cannot allow this to happen to any tribal government in the 21st century." Ms. Deer said.