

The United States has an obligation in law and honor to protect and support the well-being of Native nations and their citizens in this country. This obligation arises from treaties and other settlements, and from trust responsibilities that the federal government took on when it dispossessed Native peoples of their homelands. The health care, education, and economic supports that Indian nations still seek today have already been “paid for” by more than 90 million acres of “reserved” land taken by or ceded to the United States government between 1887 and 1934 as more colonists settled in Indian country. These 90 million acres are in addition to the land that was already lost when Native people were first moved off the coasts toward the interior of the country, and then moved again on forced marches onto reservations and into “Indian Territory” as Europeans continued to arrive in large numbers. The robust economy of this country is founded on land that was traded for promises of support “forever.”

The federal government is obliged to fulfill its trust responsibility whether or not it decides to lower taxes, increase military spending, or decrease spending on programs that are unpopular with a ruling political party. These obligations come first and the federal government must arrange its finances so that its foundational responsibilities are met. The Supreme Court has defined this trust responsibility as a “moral obligation of the highest responsibility and trust.” (*Seminole Nation v. United States*, 1942).

“The special relationship between Indians and the federal government is the result of solemn obligations that have been entered into by the United States government.

Down through the years, through written treaties and formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide community services such as health, education and public safety—services that would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans.

This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the federal government that arises from these agreements continues to carry immense moral and legal force.”

President Richard Nixon
Special Message to the Congress on Indian Affairs, July 8, 1970.

A faithful budget will incorporate this obligation of honor as a foundational priority. Projects and funding that assist tribes to survive and thrive in the lands left to them fulfill one part of that obligation. Full inclusion of Native communities and families in assistance available to *all citizens in need* is another feature of a faithful budget.

Government to Government Relations:

Under “self-determination” laws, tribal governments are increasingly taking over the management of federal programs in Indian country. These programs range from health care to housing and from education to road building. Under a contract with the federal government, the tribal governments are entitled to a payment equal to the cost of federal administration of the program. When domestic programs are being cut over all – under sequestration or other budget cutting schemes – the Congress has typically allocated to tribes less than the agreed amount. In three recent Supreme Court cases, the law in this area has become quite clear: the federal government must allocate the full “contract cost” to the managing tribes. In the last few years, this obligation has been met, but Congress has not yet recognized it as a “mandatory” budget item.

Another cost-cutting scheme often applied to domestic programs is the “block grant.” Instead of supporting the full range of services needed by low-income families, the federal budget sometimes allocates flat amounts to states, based on population. To save money, the formula normally allocates just a percentage of the aggregate amount that all

The trust responsibility of the United States toward Native nations is a “moral obligation of the highest responsibility and trust.” Supreme Court in *Seminole v. U.S.*, 1942

the families in a state would have received directly from the federal programs. In addition to the many problems that block grants create for states and for families that need support, they also pose an impossible barrier for many tribal governments. Tribal governments are not parts of states – under the Constitution, they relate directly to the federal government. Tribal funding should come directly to tribal programs or to tribes to be placed under their management.

Health Care for Native Communities:

American Indians and Alaska Natives born today have a life expectancy that is 4.4 years less than the other Americans, according to the Indian Health Service. In some areas, the contrast is especially stark. While the average South Dakotan can expect to live to age 79.5, residents of the Pine Ridge Reservation live an average of only 67 years. Many factors contribute to these ultimate reflections of poor health, according to the National Indian Health Board: historic trauma, poverty, lack of access to healthy foods, loss of culture and environmental pollutants. The lack of a well-developed public health structure in the midst of this “perfect storm” contributes to the near inevitability of ill health and untimely death.

Health care funding for Native communities comes through the Indian Health Service (IHS), tribally operated health programs, urban Indian health programs, and the Special Diabetes Program for Indians. In addition, eligible Native individuals participate in Veterans’ Health Care, Medicaid, Medicare or private insurance. Many of the services offered in IHS and Tribal health facilities and programs are underwritten by Medicaid and Medicare. The expanded availability of Medicaid under the Affordable Care Act sharply reduced the number of uninsured people in Indian country. Ending the Affordable Care Act and making deep cuts in Medicaid will deny access to health care to many in Indian country and diminish the availability of Indian health facilities. Frail elders who rely on Medicaid for nursing care will

be seriously affected by such cuts, as will elders in all communities.

Current regulations provide Tribal Health and IHS programs with a 100% reimbursement rate for services they provide to patients who are eligible for Medicaid. These reimbursements provide Indian health clinics and hospitals with a reliable income stream, so that they can develop a full range of programs for their patients. Urban Indian health centers and clinics do not have this assurance; they seek a legislative change to ensure reliable access to full Medicaid reimbursement. A faithful budget would protect Medicaid and Medicaid expansion funds to support Indian health programs and the care of all people who struggle to afford health care.

Three IHS facilities in the Great Plains region have been so underfunded that they have been “de-certified” by the Centers for Medicare and Medicaid within the Department of Health and Human Services. The oversight agency noted a continuing lack of sufficient staffing, up-to-date and functional equipment and other deficiencies that had not been remedied over a period of time. The de-certification means that these facilities have lost a significant income stream. They are now *even more* under-staffed and under-resourced. They seek a specific “bail-out” from the federal government so that they can resume offering services to the communities that rely on them.

In two days of hearings before the House Appropriations Subcommittee that deals with Indian Health, tribal leaders echoed each other in asking for focused support for mental health services, drug and alcohol abuse services and preventive care to enable tribes and tribal communities to intervene early in the root causes of youth suicide, family violence, and systemic illnesses such as heart conditions, hepatitis, and diabetes. Many also mentioned the Tiwahe program (Tiwahe means “family” in Lakota) which coordinates wrap-around services to help families reeling from the effects of physical, social, and mental health challenges. A faithful budget would invest early in maintaining and regaining health for individuals and families who are deeply challenged by historic trauma, poverty, loss of culture, and loss of access to healthy indigenous food sources.

Indian Education:

Education funding comes through the Bureau of Indian Education (BIE) within the Department of the Interior, from the Department of Education, and – for land grant colleges – from the Department of Agriculture. While some privately operated schools continue, tribes are increasingly taking control of education in Indian country, and making demands for a higher standard of education in BIE schools. Some BIE schools have gain notoriety in the last decade and more for their appalling physical condition. As of 2014, the total BIE budget for the repair and replacement of 60 schools in “poor” condition was less than \$1 million. (In contrast, the Department of Defense, which operates a comparable number of schools for military dependents in similarly challenging locations, was given a five year commitment of \$3.7 billion for repair and replacement of 134 schools in substandard condition.)

The backlog of BIE construction to bring “poor” schools to “acceptable” condition is \$1.3 billion. For FY 2017, the BIE repair and replacement budget line was increased from \$130.3, compared to the \$2

million allocated for that line item in 2014. Faith support the request of the National Congress of American Indians and the National Indian Education Association for an allocation of \$263 million in FY 2018 – an *annual* amount needed over the next five years to bring all substandard BIE schools up to standard.

A faithful budget will provide full support for the rebuilding of dilapidated schools and for the education that takes place *within* these schools. Specifically, support for Native language instruction and tribal cultural classes help tribes to pass on their core values and hopes to their children, while full internet access provides connections to the rest of Indian country and to resources available across the country.

Indian Housing:

In January this year, just before the Inauguration, the Department of Housing and Urban Development released a report on Native American, Alaska Native and Native Hawaiian housing programs. The report summarized that Congress had provided a fairly flat level of funding – around \$667 million – for the cornerstone Indian Housing block grant for each of the last twenty years. During that time, inflation had eaten into the value of the total, so that \$667 million in 1997 carries only a \$440 million purchasing power today. The report, prepared by the Urban Institute, found that

- Among Native Americans living in tribal areas, 32 percent are living below the poverty line. Among those living in surrounding counties, the poverty rate is 28 percent. The national poverty rate as of now is 18 percent.
- 57 percent of the homes in tribal areas are troubled by overcrowding or lack of basic amenities: heat, sanitation or other physical problems.
- About 68,000 new units are needed: 33,000 to deal with overcrowding and 35,000 to replace severely inadequate homes.
- Although nearly all tribal areas report these problems (with 99 percent reporting a waiting list), Alaska and tribal areas in Arizona and New Mexico report the highest incidence of poor housing.
- The major barrier to creating more housing is lack of adequate funding. In addition, high and rapidly increasing costs, lack of infrastructure development, and the availability of trained workers get in the way of housing production.

The president's initial "skinny budget" outline proposed a 25 percent cut in the Indian Housing Block Grant, and was unclear about continuing support for successful mortgage subsidy programs.

A faithful budget would build on what works, by combining increased funding for Indian housing production with increased investments in infrastructure and skilled training for unemployed people in Indian country. The National Congress of American Indians gives numbers to this sensible and faithful approach: At least \$700 million for the Indian housing block grants, \$70 million for the Indian Community Development block grant, plus \$12 million for two mortgage subsidy programs. In addition, the National Congress of American Indians names \$12 million for the Native Hawaiian housing block

grant, and \$.5 million to support a mortgage subsidy program in Hawaii.