

February 20, 2025

The Honorable John Thune
Senate Majority Leader
S-230 U.S. Capitol Bldg.
Washington, D.C., 20510

The Honorable Charles E. Schumer
Senate Minority Leader
S-221 U.S. Capitol Bldg.
Washington, D.C., 20510

Dear Majority Leader Thune and Minority Leader Schumer,

On behalf of the undersigned organizations that collectively serve sovereign Tribal Nations and their citizens and communities, we write to express concern and highlight opportunities for Indian Country as Congress considers budget reconciliation legislation. While we recognize that Congress is seeking to address broader issues related to taxation and border security, we remind you that proposed changes to federal spending and programs are likely to have a disproportionate impact on Tribal Nations and our people. In addition, Tribal Nations have long sought changes to the tax code aimed at extending the governmental parity they are due. To that end, we urge that any reconciliation bill protect and advance the interests of Tribal Nations and our people, in fulfillment of trust and treaty obligations.

Unique Legal Status of Tribal Nations. Tribal Nations are and always have been inherently sovereign governments that have strong political relationships with our Tribal citizens and community members. We govern and police our lands, and we provide services aimed at keeping our communities safe and healthy. Tribal Nations also have political, government-to-government relationships with the United States, and we prepaid with our lands and resources for the trust and treaty obligations that the United States owes us in perpetuity. The U.S. Constitution singles out Tribal Nations and Native people as unique, and the U.S. Supreme Court has time and again affirmed the principle that United States actions that deliver on trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities do not run afoul of the U.S. Constitution's equal protection requirements.

Scope of Trust and Treaty Obligations. The United States fulfills its trust and treaty obligations both through the direct delivery of Tribal programs and services and the provision of federal funding to Tribal Nations to deliver services to our own communities. Any Tribal program or funding delivered to Tribal Nations—including through Urban Indian Organizations and Tribal organizations serving Tribal Nations—is provided in furtherance of the United States' trust and treaty obligations. The federal employees necessary for the functioning of Tribal programs and the disbursement of Tribal funds are also part of the trust and treaty obligations. These actions are not discretionary; they are legal obligations rooted in treaties, trust obligations, the U.S. Constitution, and long-standing federal statutes.

Concerns with Potential Changes to Federal Programs and Spending. As you consider reconciliation legislation in the Senate, we ask that you work to exempt Indian Country from the harmful impacts of changes to federal spending and policy. Reductions in the scope or funding of the programs that we access are not only violations of trust and treaty obligations, but will have

devastating impacts for our people. As the budget reconciliation process continues to unfold, we would like to highlight our deep concern and opposition to the inclusion of any language that reduces services or funding to Indian Country. We call upon you to ensure that exemptions are provided for Tribal Nations, Tribal serving organizations, and Native people within any reconciliation legislation, including, but not limited to, the following changes:

- **Medicaid cuts, caps, and work requirements.** Medicaid is critical method by which the United States seeks to deliver upon trust and treaty obligations to provide health care to Tribal Nations. Medicaid resources are vitally important to supplementing the chronically underfunded Indian Health System (comprised of the IHS, Tribal providers, and Urban Indian Organizations). Reforms, such as cost caps, would shift costs to states for American Indian and Alaska Native (AI/AN) Medicaid beneficiaries who currently have their costs covered by 100% Federal medical assistance percentage (FMAP) when seen at an Indian Health Service (IHS) or Tribal facility. Further, conditioning access to Medicaid with work requirements fails to honor trust and treaty obligations, and are not reflective of on-the-ground realities in Indian Country. Specifically, many AI/ANs are employed but face unique barriers that make it difficult to prove this. These include limited mail access, poor broadband, insufficient transportation infrastructure, and language barriers. Additionally, Medicaid resources are a critical consideration for Tribal Nations deciding whether to take over Indian Health Programs under the Indian Self-Determination and Education Assistance Act (ISDEAA). Reducing access to Medicaid resources will disincentivize Tribal Nations from electing to take over programs from the IHS and reduce access to much needed supplemental resources for existing Tribal, IHS, and Urban Indian Organizations. This includes any changes to the FMAP or Medicaid expansion. Both AI/AN people and the Indian Health System must be made exempt from any Medicaid reforms. The last time Congress considered Medicaid reform in 2017, it provided such exemptions, and we ask you to do the same again. In addition, the first Trump Administration approved several section 1115 waivers related to work requirements that exempted AI/ANs, including in Arizona, Indiana, South Carolina, and Utah. We support [the letter](#) the National Indian Health Board sent on January 31, 2025, and encourage you to refer to that statement for further information.
- **Changes to Education Funding Structures.** As Congress looks to restructure the core of the American education system and redirect federal funding to the states, it is essential that any block grant funding must explicitly protect Tribal Nations and Tribal education systems as eligible entities with dedicated set-asides in each program, ensuring that Tribal Nations and Tribal education systems do not have to seek federal funding through state governments. We highlight the importance of Title III programs under Higher Education Act (HEA) (20 U.S.C. § 1057), Title VI programs under the Elementary and Secondary Education Act (ESEA) (20 U.S.C. § 7401), Title I programs under ESEA (20 U.S.C. § 6301), and Impact Aid under Title VII of ESEA (20 U.S.C. § 7701), as well as all programs administered through the Office of Indian Education (OIE). As these programs may be relocated to other agencies, we want to ensure the funding and staffing levels necessary to operate these programs move with them. We encourage Congress to look to the Child Care

and Development Block Grant (CCDBG) as a model for successful Tribal set-asides and direct Tribal funding. 42 U.S.C. § 618(a)(3)(B) ensures that Tribal Nations and Tribal serving Organizations receive funds directly from the federal government, enabling them to operate their own childcare programs tailored to the needs of their communities without requiring them to seek federal funding through state governments.

- **Changes to TANF.** Nearly half of all federally recognized Tribal Nations are now served by a Tribal Temporary Assistance for Needy Families (TANF) program, which enables them to better meet community needs, deliver services in ways that honor Tribal culture, and take advantage of additional flexibilities. An indiscriminate reduction in TANF funding will jeopardize this vital funding. We urge the exemption of the Tribal TANF Block Grant from any funding reductions.
- **Changes to SNAP.** Similarly, the Supplemental Nutrition Assistance Program (SNAP) is a critical program ensuring millions of low-income families, including AI/ANs, have access to food. As a federal program, it is also a critical mechanism by which the United States meets its trust and treaty obligations to Tribal Nations and communities. Federal programs to combat hunger like SNAP are important to Tribal communities—approximately 25 percent of Native Americans receive some type of federal food assistance, and in some Tribal communities, participation is as high as 80 percent. Our populations must be exempt from any reductions in SNAP benefits, including any reductions related to work requirements.
- **Repeal of Infrastructure Laws.** Under recently enacted federal infrastructure packages, including the Inflation Reduction Act (IRA) and the Infrastructure Investment and Jobs Act, Tribal Nations have access to over \$14 billion in direct funding and are eligible for billions more in funding through competitive grants, loans, loan guarantees, tax credits, and contracts. This funding is essential to addressing centuries of unmet infrastructure obligations across Indian Country, and we urge you to ensure it continues to flow to Tribal communities and enterprises.

Inclusion of Tribal Tax Priorities. With bipartisan, bicameral support, the Tribal Tax and Investment Reform Act amends the Internal Revenue Code to bring parity for Tribal governments to access the same financing opportunities and engage in the same economic development and job creation activities available to state governments. Enactment of this legislation will remove persistent barriers to accessing the necessary capital required to support economic development and growth in Tribal communities, including through parity in the issuance of tax-exempt bonds. To that end, we urge the inclusion of all the bill's provisions in any reconciliation legislation. We further request the addition of language recognizing and protecting the sovereignty of Tribal governments, including our ability to retain the revenue generated within our borders through taxation that does not have to compete with taxes states attempt to collect for activities on our lands.

In recognition of the government-to-government relationship between Tribal Nations and the United States, and the federal trust and treaty obligations owed to us, we ask that you work to protect Indian Country from becoming collateral damage in the budget reconciliation process. We

have prepaid for the services and funding delivered to us, much of which could be jeopardized without an exemption from larger policy change or reductions. We stand ready to work with you on the inclusion of our long-standing tax priorities and other legislative action that upholds and recognizes our sovereignty and unique relationship.

Sincerely,

Affiliated Tribes of Northwest Indians
American Indian Higher Education Consortium
Great Plains Tribal Chairman's Association, Inc.
Indian Gaming Association
Midwest Alliance of Sovereign Tribes
National Congress of American Indians
National Council of Urban Indian Health
National Indian Child Welfare Association
National Indian Education Association
National Indian Health Board
Native American Finance Officers Association
Self-Governance Communication & Education Tribal Consortium
United South and Eastern Tribes Sovereignty Protection Fund