

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

LRM NO: 1012

FILE NO: 15

4/13/96

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 13

TO: Legislative Liaison Officer - See Distribution below.
FROM: Janet FORSGREN (for) Janet R. Forsgren
Assistant Director for Legislative Reference

OMB CONTACT: Chris MUSTAIN 395-3923
Legislative Assistant's line (for simple responses): 395-7382

SUBJECT: INTERIOR Proposed Report on Effect of Block Grants on Indian Tribes

WR -
Indians

DEADLINE: 11:00 am Thursday, April 20, 1996

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS:

AGENCIES:

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324-COMMERCE - Michael A. Levitt - (202) 482-3151
207-EDUCATION - John Kristy - (202) 401-8313
326-Environmental Protection Agency - Chris Hoff - (202) 260-5414
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215-HOUSING AND URBAN DEVELOPMENT - Edward J. Murphy, Jr. - (202) 708-1793
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RESPONSE TO
LEGISLATIVE REFERRAL MEMORANDUM

LRM NO: 1012
FILE NO: 15

If your response to this request for views is simple (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter.

Please include the LRM number shown above, and the subject shown below.

TO: Chris MUSTAIN 395-3923
Office of Management and Budget
Fax Number: 395-6148
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
_____ (Name)
_____ (Agency)
_____ (Telephone)

SUBJECT: INTERIOR Proposed Report on Effect of Block Grants on Indian Tribes

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet



United States Department of the Interior

DRAFT

OFFICE OF THE SECRETARY
Washington, D.C. 20240

Honorable John McCain
Chairman, Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

At the March 7, 1995, hearing before your Committee on "Challenges Confronting American Indian Youth", Vice Chairman Inouye requested a report on the implications for Indian tribes of block grants to states.

Block grants are a mechanism to fold funds from a variety of Federal programs into one grant award, generally distributed only to states. Once a categorical program is folded into a block grant, it ceases to exist as a separate program. Below is a list of concerns which should be considered before Congress enacts legislation which includes Indian tribes in block grants to states:

- Capped block grants distributed only to states without tribal set-asides infringe on the legal government-to-government relationship of Indian tribes with the Federal government.
- State-only block grants are inconsistent with the official Indian Policy statements of four Presidents: Nixon, Reagan, Bush and Clinton.
- Hard-won legislative set-asides to tribes should be retained if programs are turned over to states.
- The few tribal programs operating under sub-grants from states experience lack of parity funding and disregard for the cultural design of tribal programs.
- State block grants can impose a requirement to provide matching funds, which causes a hardship on tribal sub-contractors.
- States have historically not responded to tribal needs.
- States rarely consult or plan voluntarily with tribes and urban Indian populations.
- States are unfamiliar with tribal community needs and reservation delivery systems.
- Tribes are the most knowledgeable and efficient in developing and administering services to their citizens.
- States lack the knowledge of and ability to confirm who is an Indian.
- Already scarce resources limit small tribes (450 of the 550 federally recognized tribes) from operating the full range of family services.
- More stringent state eligibility requirements could decrease access by American Indians.
- Limited access to state block grants will further strain Bureau of Indian Affairs (BIA) programs.

In 1981, several federal block grants were created from existing federal statutes. Unfortunately,

little attention was given to funding for tribes in those block grants. President Reagan, recognizing the disservice done to tribes under the 1981 block grants, proposed in his January 24, 1983 Indian Policy statement, that the laws be amended to provide for direct funding for tribes via separate tribal block grants.

Subsequently, a February 1984 study commissioned by the Department of Health and Human Services, *Block Grants and the State-Tribal Relationship*, documented the inequitable treatment given to tribes in the development of several federal block grants created in 1981. The report, in part, stated:

"Congress failed to perceive two things: first, in many cases direct funding to tribes would be nominal, and second that states would be placed in the awkward position of being expected to respond to tribal needs through tribal governments, which do not comprise part of the usual state constituency and states cannot require or enforce accountability."

In addition, the report stated:

"While it seems clear that Indians as state citizens are constitutionally entitled to a fair share of state services, this general principle does not address the issue of the delivery system; that is, the degree to which services on the reservation should be delivered by tribal rather than state and municipal governments. This vacuum in federal law and policy is the source of unnecessary complications in the state tribal relationship when, as here, federal legislation adjusts the delivery system for federally funded services without clearly addressing its impact on the delivery system relationships at the reservation level."

One 1981 block grant, Title XX Social Services Block Grant, provided no funding for tribes, while other block grants were available to tribes only if a tribe had received funding the previous year from one of the categorical programs included in the block grant. This excluded all but about 20 tribes.

Tribes and tribal organizations, as primary providers of services for their members, are in the best position to develop and administer services in their communities.

State and county governments believe that they are in the best position to understand the social problems of their constituencies and to develop and implement appropriate solutions to these problems. Tribal governments are no different in that they believe they have unique knowledge and qualifications critical to providing effective services to their communities, both in a cultural and political sense. Furthermore, political leaders and program administrators throughout the United States recognize the importance of providing community-based services to people. Community-based services provide the most effective means, in terms of costs and service outcome, of delivering social services.

Tribes, while having much less federal funding than states, have been able to develop structures to effectively manage funds and administer a broad range of programs. These include welfare assistance, child care, child welfare, health, education, law enforcement, courts, and job training. These programs rely on trained professionals employed by tribes, most of whom are residents of the community and possess a critical knowledge of community standards. This experience and knowledge of tribal programs is unmatched by any other public or private entity. The programs that tribes offer incorporate locally developed strategies that are typically not utilized by non-tribal service providers. The result is services which best -- and most efficiently -- meet the needs of the individual and tribal community.

A 1988 study commissioned by the Departments of Health and Human Services and Interior, *Indian Child Welfare: A Status Report*, concluded that tribal child welfare programs were, in many ways, outperforming state systems. These community-based services were found to be more effective than state services despite unstable and inadequate competitive grant funding.

Since the implementation of the 1981 state block grant program, tribes have expressed their difficulties operating tribal programs under sub-grants from the states.

The tribes have experienced a lack of parity funding for their programs because they must compete in a highly political and competitive environment. They have specifically cited such problems as disregard for or lack of sensitivity to the cultural or spiritual design of Indian programs. Since there are so few American Indian state legislators, they have few, if any, political advocates for their programs, funding and program uniqueness. The State of New Mexico is one of the few states where a special American Indian Subcommittee has oversight over state Indian programs. This subcommittee has protected and advocated for the exceptional needs of Indian programs. Such advocacy should become the norm.

Tribes advise that state governments often take a large share of administrative costs from the block grants before actual programs are funded. Thus, for Indian programs, it is possible that there would be two levels of administrative costs: by the State government/agency and the tribal government. This is a very inefficient use of scarce resources, preventing much-needed funds from reaching the community itself.

When block grants are made directly to tribes, eligibility for the programs is based on identification as American Indians, and less on stringent eligibility requirements such as income or domicile issues. Often, residency and domicile issues are used to disqualify Indians for state services. Also state governments often confuse who is a state or federally recognized Indian and who is eligible for services as an Indian. Tribes also express concerns about the state's practice of using census population figures, which are viewed as being not truly representative of tribal populations.

While tribes have succeeded in fulfilling federal contract and grants with fewer reporting requirements, states continue to impose extensive reporting requirements on their sub-grants or contracts to tribes. Another problem experienced by states, and transferred to tribes under state

block grants, is the Federal requirement to provide matching funds or use the small funds as "leverage" to receive funds. In such cases, tribes without Pub. L. 93-638 contracts are at a disadvantage trying to locate matching resources in order to qualify for program funding.

To administer certain income support programs, like AFDC; child support enforcement programs; and other human resource programs, like housing programs, state governments lack knowledge of tribal, federal and state jurisdictional issues, or enforcement processes, or debt management and its collection.

We support tribal proposals that tribes should be funded directly in block grants in an amount equal to no less than a percentage equal to no less than 3% of the total amount appropriated in a specific piece of block grant legislation.

Another alternative to capped state block grants which we support is to amend block grant legislation to recognize the BIA as the 51st state, with the Secretary of the Interior designated as the allottee. The funding formula to distribute funds directly to tribes would be calculated in consultation with tribes.

We also agree with the tribes' proposal that any state within whose boundaries an Indian tribe is located shall consult with the Indian tribes in the development of state plans.

A tribal allocation of block grant funds is consistent with the official Indian Policy statements of Presidents Nixon, Reagan, Bush, and Clinton which pledged a continued government - to - government relationship with tribes.

The provision of direct funding to tribal governments is consistent with many current federal statutes, including the 3% allocation to tribes under the Child Care and Development Block Grant and the 3.3% allocation to tribes under the Job Training Partnership Act. Many federal programs include statutory funding allocations for tribes and tribal organizations; and it is commonplace for new legislation to include specific funding provisions for existing and newly recognized tribes. Examples of programs that have tribal funding provisions include the following:

- Child Care and Development Block Grant
- Title IV-B Family Preservation and Support Services
- Title IV-B Child Welfare Services
- Family Violence and Prevention Services
- JOBS (Job Opportunities and Basic Skills Training)
- Job Training Partnership Act
- Head Start
- Vocational Rehabilitation Act
- Vocational Education Act
- Library Services and Construction Act
- Clean Water Act
- Safe Water Drinking Act

Even Start Program
 Drug Free Schools Act
 Low Income Home Energy Assistance Program
 Title I, Housing and Community Development Act
 The Department of Housing & Urban Development Act
 Title II, The Older Americans Act

If incorporated into block grants, these and other hard-won Indian set-asides would go directly to states and would be lost to tribal communities. In addition, other programs provide for tribal eligibility when applying for discretionary funds:

At-Risk Child Care
 Child Abuse Demonstration and Research Grants
 Community-Based Family Resource Program
 Grants to Improvements Investigation and Prosecution of Child Abuse Cases
 Family Unification Program
 Community Development Block Grant

Under block grants, Indian tribes should be consulted in the development of state plans for the distribution of funds.

As a practical matter, tribes and states should cooperate in planning services so that unnecessary duplication of services is avoided and services that only states offer include components that will maximize their effectiveness with Indian people. Tribes often have valuable insights into the most effective and efficient means of serving both urban and reservation-based Indian populations.

There is considerable movement within the Indian population between reservation and urban areas, particularly for reasons of education and employment. There are also large, permanent Indian populations in urban areas. For these reasons, Indian people will need to access state services from time to time. Furthermore, some tribes, especially smaller ones, which comprise the majority of federally recognized tribes, will not be able to operate the full range of welfare-related services that states can offer.

In some areas tribes and states have previously entered into cooperative agreements, such as on child protection, child support enforcement, and social services. Where such mutually agreed upon arrangements are in force, it is important that any proposed block grant legislation not interfere with nor impede such agreements.

Capped block grants to states, without tribal set-asides, could have immediate and long term negative impacts on American Indian/Alaska Native tribes and villages. Communities that have historically suffered under minimal resource allocations will face even more restrictive financing and, thereby, service delivery. The following scenarios provide examples of negative impacts of state block grants on tribes and BLA programming.

For a number of years, BIA funded schools have depended on the U. S. Department of Agriculture's (USDA) school lunch program to provide food for all students in all grades, including those attending boarding schools and peripheral dormitories. Due to low income levels, virtually all 46,000 Indian students attending BIA funded schools qualify for the reduced cost meals. In FY 1994, the BIA collected \$6.9 million from the USDA for the food service program at BIA operated schools. Schools operated by Tribes collected approximately \$5.2 million from the USDA. In total, approximately \$12.1 million was collected from BIA funded schools for purposes of providing school lunch programs for Indian children.

Currently, all 185 BIA funded schools, which are usually located either on Indian reservations or very remote areas, use Indian School Equalization Program (ISEP) funds as their basic school operations support. Since the ISEP formula was not designed to cover the direct costs of food programs, almost all of the schools began applying to the USDA school lunch program during the 1980's as a means to ensure that eligible school children benefit from the lunch program. Should approximately \$12.1 million not be available to the BIA funded schools from the USDA lunch program, the schools would be forced to consider the following actions.

1. Schools would have to look to their basic ISEP funds to absorb the costs. The ISEP fund at each school must already pay for salaries of teachers and counselors at a rate statutorily mandated by the Congress. At many schools, salaries alone account for up to 92% of the ISEP budget. Each principal must use the remaining 8% for teaching supplies, materials and other instruction-related costs. The schools would have to reduce the number of teachers/counselors or other staff in order to absorb the total costs of food service programs. Course offerings would also be reduced. Eventually, the accreditation status of the school would be affected.
2. The BIA funded schools would have to continue to provide a food service program for students in day and boarding schools. In many cases, the breakfast and lunch provided by the schools are the only nutritious meals the Indian student will receive for the whole day. Without full funding for the USDA program, many of the 46,000 Indian students would go hungry.
3. Since many of the BIA funded schools are small and in isolated areas, the loss of the USDA school lunch program funds would have a serious impact on the school's budget and the impact would be felt throughout many small Indian communities. In most cases, the school is the hub of the tribal community and any such negative financial impact at the school is carried over into the homes and families of such small communities.
4. Currently, the BIA is projecting an ISEP Weighted Student Unit (WSU) value of \$2,954 per student for the 1995-96 school year. Should the BIA funded schools be required to absorb reductions in the USDA program, the ISEP per student WSU value would be reduced, thus reducing the overall education program.

For a number of years, BIA funded schools have been eligible to participate in the Drug Free Schools & Communities Program. This program and corresponding funds allows BIA funded schools to provide alcohol and substance abuse prevention programs, training for school staff,

parental and community involvement and coordination of community services. Today, all 185 BIA funded schools have such programs in operation serving 46,000 Indian students. Five of the BIA funded schools have received national recognition for outstanding programs. The BIA receives \$5.4 million per year from the Department of Education for the program.

Since the ISEP formula was not designed to provide funds for such preventive health programs, all schools have had to seek supplemental funding sources to combat the effects of drugs in their schools. The only current source of funding available to the 46,000 Indian students attending the BIA funded schools is the Drug Free Schools Program. Should this program not be available, through a tribal set-aside, BIA funded schools would be forced to consider the following actions:

1. Coupled with the potential loss of school lunch program funds from the USDA, BIA funded schools would be forced to absorb drug free program costs within their basic ISEP funding levels. Without increases in ISEP to offset these losses, schools would have to reduce their overall education program.
2. The schools could be forced to cancel all current drug prevention education programs for the 46,000 Indian students. Schools would be unable to effectively deal with the escalating problem of drug use by Indian youth.
3. The attainment of the President's National Education Goal relating to safe and drug free schools would become an unfunded Federal mandate for all BIA funded schools.

A picture of the current situation for tribal access to federal social service and child welfare funds was provided in a report by the HHS Office of the Inspector General, *Opportunities for ACF to Improve Child Welfare Services and Protections for Native American Children*, August 1994. The report revealed that tribes receive little direct benefit or funding from federal child welfare programs, specifically, Title IV-B Child Welfare Services and Family Preservation and Support Services, and Title IV-E Foster Care and Adoption Assistance. While tribes receive a small amount of direct funding under IV-B (less than \$2 million from a \$293 million program), there is no funding available directly to tribes under the much larger IV-E program (\$3 billion annual expenditure) or under Title XX social services block grants. (See Appendix A for further information.) Tribes can access IV-E foster care and adoption assistance funds but only if they have functional tribal/state agreements in place. This, even though Indian children are placed out-of-home at a rate 3.6 times greater than the rate for non-Indian children (Departments of HHS and Interior, *Indian Child Welfare: A Status Report*, 1988).

Tribes have worked long and hard for the past several years to access State flow-through funds as well as direct funded sources, e.g., Title IV-B child welfare funds, but as reported, the amounts received have been minimal. In many cases, restrictive eligibility criteria and award formulas effectively excluded Indian tribes from accessing these funds. Those tribes who were successful received relatively small grants, e.g., Title IV-B child welfare and family preservation grants.

If categorical program funds are block granted to states, without tribal set-asides, tribes have no assurance that they will have any easier access to already well protected state dollars. One BIA Area, the Billings, Montana Area Office, submitted a list of funds received, by tribe and by source for social service programming. (See Appendix B) The majority of funding (\$10,339,000) is from BIA sources, but almost an additional \$1 million is received from HHS/State sources. To resource-scarce tribal communities, that \$1 million is a significant amount of money that could be lost under block granting.

The need for continuing services provided by the categorical programs slated for elimination will not lessen. Moreover, programs and services which provided protections and served as a safety net for vulnerable Indian children, families and elderly could be eliminated and may never be replaced if tribal set-asides are not included in block grant legislation. As a result, the BIA would be confronted with an increased need of enormous proportions for services in Indian communities for which it is ill-prepared, fiscally or otherwise. This is because BIA programs have never been the primary service providers for the affected beneficiaries. Thus, the BIA sees no possibility of meeting the needs that will be created by reductions or elimination of such a wide range of categorical programs. For example, an enormous need will be created by eliminating IV-E foster care payments for the high numbers of Indian children currently in foster or substitute care.

If tribes decide to provide services to former state clients, their welfare assistance funds will be dramatically impacted. The burden will be placed on tribes or the BIA for providing services to mushrooming caseloads. In a short period of time, BIA Welfare Assistance funds, totaling only \$105,442,000 for all tribal communities, would be drained and Indian children and families will suffer. Also, BIA social service dollars currently fund 31 tribally operated emergency shelters nationwide. If tribes are strained to meet the most basic of needs in their communities, it is likely that these few shelters would have to be sacrificed so funds could be routed to another priority.

Indian Child Welfare Act funds are used to protect Indian children and prevent the separation of Indian families. The BIA distributes the funds non-competitively to all tribes (\$20,612,000) and competitively to urban areas (\$1,732,000). If this legislation were repealed and no tribal set-asides are included in block grant legislation, there is no other source of funding to fill this critical need.

The BIA Housing Improvement Program (HIP) provides assistance to the most needy individuals in reservation communities to repair existing Indian-owned homes or construct replacement houses. The vast majority of new home construction on Indian reservations is funded by the Department of Housing and Urban Development. The HIP program funds repairs (1) to houses that although they will remain substandard need immediate repairs for the health or safety of the occupants, and (2) to bring houses up to standard. The funds in the HIP program are minimal (\$19,047,000) and, in FY 1995, will allow tribes to build only 100 new homes and repair 1,125 existing homes. If cuts are made to HUD programs and no tribal set-asides are included in block grant legislation, the strain on the HIP program will be enormous, and BIA has no additional

funds to meet the increased need. The backlog of BIA housing projects for needy Indians currently exceeds 370 million dollars.

Federal funding for tribal and BIA law enforcement and detention programs, for both adults and juveniles, has historically been insufficient. Tribe after tribe has come to the BIA and Congress for assistance, with little or no remediation. The Violent Crime Control and Law Enforcement Act of 1994, Community Oriented Policing (COPS) program has increased tribal law enforcement operating budgets by over 10 percent. In FY 1995, over \$9 million has been provided to 128 tribes by the U. S. Department of Justice. In future, it is probable that additional tribes will be found eligible for COPS funding, thereby increasing the level of funding desperately needed for law enforcement and crime prevention efforts in Indian country. If a program such as COPS was capped or turned over to states to administer without tribal set-asides, it is highly unlikely that tribes would receive the current \$9 million or future increases. The quantity and quality of law enforcement services would decline, impacting already overburdened community social service and community development delivery systems.

We appreciate the interest of the Committee in the needs of Indian children and their communities.

Sincerely,

Ada E. Deer
Assistant Secretary - Indian Affairs

Enclosures

cc: Honorable Daniel K. Inouye
Vice Chairman

ACF FUNDING FOR TRIBAL CHILD WELFARE SERVICES

Most Tribes have received little or no Title IV-E or Title XX funding.

In 15 of the 24 States with the largest Native American populations, eligible Tribes received neither Title IV-E nor Title XX funds from 1989 to 1993.²⁰ In 1993 alone, these 15 States received \$1,714 million in Title IV-E funds and \$1,289 million in Title XX funds.

Nine of the 24 States reported that some Tribes in their States received Title IV-E and/or Title-XX funds in 1993. (See Table 1.)

Eight States reported that 46 Tribes received \$1.9 million --.2 percent--of the States' \$82 million Title IV-E funds, while 4 States reported that 32 Tribes received \$2.8 million --.3 percent--of the States' \$98 million Title XX funds. (For additional results from the OIG mail survey, see appendix B.)

TABLE 1: OF THE TWENTY-FOUR STATES WITH THE LARGEST NATIVE AMERICAN POPULATIONS, NONE REPORTED TITLE IV-E AND/OR TITLE XX FUNDS WITH ELIGIBLE TRIBES IN 1993.

State ^a	Number of Tribes ^b	Title IV-E Funds ^c		Title XX Funds ^c	
		Number of Tribes Funded	Eligible	Number of Tribes Funded	Eligible
AK	2	0	NA	0	NA
AZ	20	0	20	0	21
CA	10	0	NA	0	NA
CO	2	2	2	0	2
CT	2	0	NA	0	NA
ID	4	0	4	0	NA
IL	0	0	NA	0	NA
MI	7	0	NA	0	NA
MO	0	0	NA	0	NA
MT	7	4	7	0	NA
NE	0	0	NA	0	NA
NV	16	0	NA	0	NA
NM	3	0	NA	0	NA
NY	7	0	0	0	0
NC	0	0	NA	0	NA
ND	4	4	4	0	NA
OK	24	24	27	0	NA
OR	9	2	9	8	9
SD	2	2	2	0	NA
TX	3	0	NA	0	NA
UT	2	0	NA	0	NA
WA	27	0	NA	0	NA
WI	0	0	NA	0	NA
WY	2	0	NA	0	NA
TOTAL	337^d	For 11 States: 46/108		For 6 States: 32/33	

^a According to both the *Indian Service Population and Labor Force Estimates* (Bureau of Indian Affairs, January 1991) and the *Resident Population Distribution for the United States, Regions, and States, by Race and Hispanic Origin* (Bureau of the Census, 1990), this list of 24 States comprises those 20 that had the largest Native American populations in absolute numbers and those 4 that had the largest Native American populations as percentages of the total State populations.

^b List of federally recognized Tribes (38 Fed. Reg. 54,222, Oct. 20, 1973).

^c Survey of 24 State Child Welfare Departments, Office of Inspector General, Fall 1993.

^d "NA" indicates that the information was not available from the State.

^e Tribes whose land extends into multiple States have been counted in each State.

BIA HHS/State

Available Funding Resources for Tribes Fiscal Year 1994

Tribe/Agency	BIA				HHS/State			Total BIA Funds		Total	Grand Total
	59 Admin	Grant Assistance	ICWA	Enrol. Shortfall/CP	Title IV-D	Family Pres. '94	Family Pres. '95	Title IV-E/State	'94		
Blackfeet	259,244	1,355,308	75,000	81,856	30,635	7,819	19,547		1,771,408	58,001	1,829,409
Crow	301,000	927,821	75,000			5,371	13,427	63,746	1,303,821	82,544	1,386,365
Fort Belknap	196,700	951,136	65,000		5,810				1,212,836	5,810	1,218,646
Fort Peck	336,800	1,850,378	75,000	150,000	26,374	6,541	16,353		2,412,178	49,268	2,461,446
Mo Choyenn	261,157	946,291	65,000	127,143	12,053	4,287	10,717	55,473	1,399,591	82,530	1,482,121
Wind River	279,344			81,856					361,200	0	361,200
Arapaho		839,897	75,000		12,068	6,569	16,423	528,000	914,897	563,060	1,477,957
Shoshone			65,000						65,000	0	65,000
Rocky Boy	164,900	629,169	65,000	69,000	13,167			62,176	808,069	75,343	883,412
Total	1,799,145	7,500,000	540,000	499,856	100,107	30,587	76,467	709,395	10,338,000	916,556	11,255,556

Appendix D

ID: 202-395-6148

APR 13 '95 21:46 No. 001 P. 13

OCJ

JUN 13:40 FAX 202 208 7618

they are looking
for a process for
discussing their concerns
about the plan, much
like what goes on at NGA
or NCSL. you may want
to contact The National
Congress of American Indians.
546-9404 - John Chase



~~Donsia -
what do
they want?
BR~~

TOHONO O'ODHAM HEALTH DEPARTMENT

P.O. Box 837

Telephone (602) 383-2221

Sells, Arizona 85634

WR - Indians

May 26, 1994

Mr. Bruce Reed
Deputy Assistant to the President
for Domestic Policy
Executive Office of the President
Old Executive Office Building
Washington, D. C. 20500

Dear Mr. Reed:

Due to the lack of input afforded the Tohono O'odham Nation into the Administration's current Welfare Reform package, the Tohono O'odham Nation feels compelled to make public their concerns.

The Tohono O'odham Nation requests the Administration to clarify relevant processes through which bilateral communications with the federal government may occur. Such exchanges would permit a more precise identification of those proposed changes having the greatest potential impact on our people. Furthermore, the Tohono O'odham Nation has reviewed many aspects of the Welfare Reform proposal and have formulated several important recommendations which the Nation would like addressed.

While the Tohono O'odham Nation applauds the President's efforts to initiate needed changes to the present welfare system, we firmly advocate more open and continuous dialogues between the Tohono O'odham Nation and federal government. Only through such a process may the Tohono O'odham Nation be assured their concerns are being seriously considered.

Sincerely,


Sylvester Listo, Chairman
Tohono O'odham Nation

Enclosures (2)

**TOHONO O'ODHAM NATION
POSITION PAPER ON
PROPOSED WELFARE REFORM ACT**

Statement of the Problem:

The Tohono O'odham Nation exists in a unique government-to-government relationship with the United States. As a result of this special inter-governmental status, Native peoples, under law, are permitted certain rights in negotiations with the federal government. However, historically, these rights have not always been recognized. Due to these past oversights, President Clinton's proposed welfare reform package is being viewed by the Tohono O'odham Nation with great concern. Because the Nation has been allowed no input in consideration of such reform, we are rightly worried about potential impacts current changes in existing legislation will have. As a result, the Tohono O'odham Nation strongly encourages further explanations of the President's plan and advocate greater tribal involvement in negotiations with the United States government in the designing and implementation of such proposed changes to the current welfare system.

Current Tohono O'odham Operations:

The Tohono O'odham Nation has successfully implemented programs addressing the welfare needs of the tribal community. For example, there exists a fully operational Job Training and Partnership Act (JTPA) program. In addition, the Tohono O'odham successfully administer the Tribal Work Experience Program (TWEPE) and an Employment Assistance Readiness Net Program (EARN) on the Tohono O'odham Nation. These target clients needing both skills training and work experience. Furthermore, the Tribal Job Opportunities and Basic Skills program (JOBS) functions as an integral part of the AFDC system. As a result, there is considerable experience demonstrating competency in Tohono O'odham attempts at self-sufficiency. This has allowed the tribe to independently support jobs programs in coordination with the state.

Components of the President's Plan:

Under the "work" plan of the administration's welfare reform legislation, proposals call for a two-year limit on the length of time any person considered able to work can receive AFDC benefits. Upon completion of this time, recipients will be required to move into unsubsidized employment. Those unsuccessful in locating such positions will be required to work in jobs created for them. This situation, given the high unemployment rate, presents potential difficulties to the Tohono O'odham Nation. After the proposed two-year limitation has lapsed, those Tohono O'odham not meeting the administration's requirements would not qualify for AFDC. Impacts of this situation could be potentially disastrous to the Nation. Furthermore, there is to be strong emphasis placed on education in this two-year time frame. This could pose potential difficulties to

the Tohono O'odham Nation because it could conceivably take more than two years for many tribal members to achieve education readiness required to successfully sustain employment.

A third problem of the plan emerges relating to effective Tribal implementation of the JOBS program. How proposed welfare reform will affect this situation is completely unclear. HHS will not permit tribes to carry unobligated funds over to meet program objectives for the next year. This adds severe barriers to the Tohono O'odham for effectual implementation of their established JOBS program. Related to this dilemma are concerns that current Nation allocations are deducted from amounts given to the state of Arizona. As a result, the Tohono O'odham is often in direct conflict with Arizona government because of difficulties in achieving accurate counts of tribal members utilized in computing allocated funds. Compounding this problem are situations where the state and Tohono O'odham Nation do not agree on statements of required needs. This leads to the likelihood that the state will promote culturally insensitive programs not addressing these needs.

Finally, many of the President's proposals call for teen pregnancy prevention programs and increased child support enforcements. The difficulty inherent in these suggestions is related to the lack of an infrastructure on the Tohono O'odham Nation to deal with many of these issues. Because the tribal judicial system lacks the necessary resources and training to cope with increasing demands for enforcing delinquent child support payments, more development is required. Currently the State does not have jurisdiction to enforce child support activities on the Tohono O'odham Nation. Therefore, additional monies are needed for the Tribe to develop such a program.

Recommendations:

Because the Tohono O'odham Nation firmly believes that current welfare reform proposals could exacerbate problems on the already socially and economically depressed Nation, we advocate the President and Congress clarify their positions regarding potential impacts of reform on the Tohono O'odham Nation. We recommend the following immediate actions should occur:

1. Funding for child care must come directly to the tribe to administer their own child care programs for JOBS and social welfare. Rigorous development is urged for a new direct allocation formula to take into consideration existing matching requirements allowing the Tohono O'odham to receive funds directly from the federal government.
2. Actively improve economic development initiatives for the Tohono O'odham. Additional funding for development projects must be built into the tribal JOBS program or to link these programs to other sources of development funding in creating more private sector employment opportunities.

3. Funding must be made available for demonstration projects to ascertain those development initiatives most successful in meeting the needs of the economically disadvantaged O'odham community.
4. Provide direct funding to the Tohono O'odham Nation's tribal JOBS program on a special national set aside basis, rather than taking the funds out of state allotments.
5. The Tohono O'odham Nation's tribal JOBS program must be provided the same effective level of resources per capita available for all other JOBS participants.
6. The Tohono O'odham Nation must be permitted the same waiver authority allowed the state if they do not wish to participate in specific programs. The Tohono O'odham Nation must be provided the option of choosing programs or developing their own in lieu of being coerced into accepting those not in their best interest.
7. The Tohono O'odham Nation should be allowed to use carry-over monies for supporting JOBS activities into the next year. Greater flexibility is imperative in using funds for tribally-administered projects for increasing self-sufficiency of the Tohono O'odham on AFDC.
8. Additional funding for strong adult basic education programs must be allocated. There is an urgent need for monies to strengthen remedial education, pre-GED and GED programs.
9. Further funding mechanisms must be developed for child care enforcement. This would include monies for more extensive training of workers handling these cases.

While we fully appreciate present concerns of the administration in addressing inconsistencies of the current welfare system, the Tohono O'odham firmly maintain insufficient input has been afforded the Nation in bilaterally negotiating those components of intended reform directly influencing our people.

President Clinton and Congress must not compound past mistakes and fall prey to policies denying this unique legal relationship with Native Americans in perpetuating a "Culture of Poverty" among the Tohono O'odham.

The present administration must be fully cognizant that welfare reform is a highly complex issue as it affects the Tohono O'odham Nation. Narrow historical and conservative unilateral communications are not conducive to Indian well-being. Only through open bilateral inter-government negotiations and discussions with the Tohono O'odham Nation may legally recognized civil liberties be adequately addressed thereby assuring future social and cultural progress.

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Support for Position Paper on the National Welfare
Reform Act)**

RESOLUTION NO. 94-176

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3 **WHEREAS,** adverting to the memorandum from the White House
4 regarding government relations with Native American
5 Tribal Governments, dated April 29, 1994, the main issue
6 addressed in said memorandum is that each executive
7 department and agency shall consult to the greatest
8 extent practicable and to the extent permitted by law,
9 with tribal governments prior to taking actions that
10 affect federally recognized tribal governments, where all
11 such consultations are to be open and candid so that all
12 interested parties may evaluate for themselves the
13 potential impact of relevant proposals; and

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17 **WHEREAS,** the Tohono O'Odham Nation have received and reviewed
18 the President's current Welfare Reform Proposal; and

19
20 **WHEREAS,** there was no input or consultation by and with the
21 Tohono O'Odham Nation in designing and
22 implementation of such proposed changes to the
23 current welfare system; and

24
25 **WHEREAS,** the Tohono O'Odham Nation firmly believes current
26 welfare proposals could exacerbate problems on the
27 already socially and economically depressed Tohono
28 O'Odham Nation.

RESOLUTION NO. 94-176

(Support for Position Paper on the National Welfare Reform Act)

Page 2 of 5

NOW, THEREFORE, BE IT RESOLVED that President Clinton and Congress clarify potential impacts of reform on the Tohono O'Odham Nation.

BE IT FURTHER RESOLVED that the following immediate actions should occur:

- 1. Funding for child care must come directly to the Nation to administer their own child care programs for JOBS and social welfare. Rigorous development is urged for a new direct allocation formula to take into consideration existing matching requirements allowing the Tohono O'Odham to receive funds directly from the federal government;**
- 2. Actively improve economic development initiatives for the Tohono O'Odham Nation. Additional funding for development projects must be built into the tribal JOBS Program or to link these programs to other sources of development funding in creating more private sector employment opportunities;**
- 3. Funding must be made available for demonstration projects to ascertain those development initiatives most successful in meeting the needs of the economically disadvantaged O'Odham community;**
- 4. Provide direct funding to the Tohono O'Odham Nation's tribal JOBS Program on a special national set-aside basis, rather than taking the funds out of state allotments;**
- 5. The Tohono O'Odham Nation's tribal JOBS Program must be provided the same effective level of resources per capita available for all other JOBS participants;**

RESOLUTION NO. 94-176

(Support for Position Paper on the National Welfare Reform Act)

Page 3 of 5

6. **The Tohono O'Odham Nation must be permitted the same waiver authority allowed the state if they do not wish to participate in specific programs. The Tohono O'Odham Nation must be provided the option of choosing programs or developing their own in lieu of being coerced into accepting those not in their best interest;**
7. **The Tohono O'Odham Nation should be allowed to use carry-over monies for supporting JOBS activities into the next year. Greater flexibility is imperative in using funds for tribally-administered projects for increasing self-sufficiency of the Tohono O'Odham on AFDC;**
8. **Additional funding for strong adult basic education programs must be allocated. There is an urgent need for monies to strengthen remedial education, pre-GED and GED programs;**
9. **Further funding mechanisms must be developed for child care enforcement. This would include monies for more extensive training of workers handling these cases.**

BE IT FINALLY RESOLVED by the Tohono O'Odham Legislative Council that it does hereby approve and support the position paper and that it be forwarded to President Clinton, Senator Moynihan, Senator Inouye, Congressman Rostenkowski and Assistant Secretary Mary Jo Bain Health and Human Services

The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on the 23RD. day of MAY, 1994 at a meeting at which a quorum was present with a vote of 1,763.0 FOR; -0-

RESOLUTION NO. 94-176

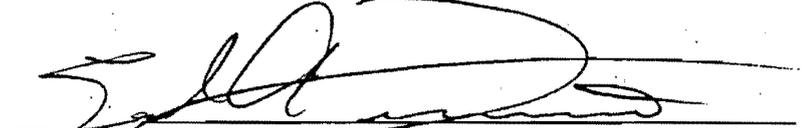
(Support for Position Paper on the National Welfare Reform Act)

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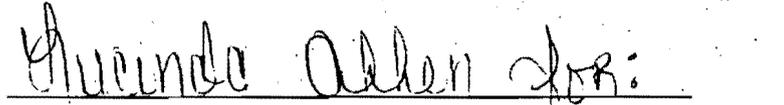
AGAINST; -0- NOT VOTING; and 08 ABSENT, pursuant to the powers vested in the Council by Section 1(f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


For **Alex J. Ramon, Legislative Chairman**

24 day of May, 1994

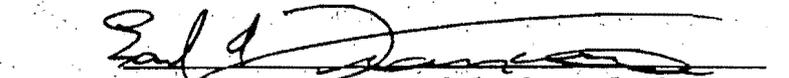
ATTEST:


Teresa M. Choyguha, Legislative Secretary

24th day of May, 1994.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 24 day of May, 1994 at 3:22 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL


For **Alex J. Ramon, Legislative Chairman**

RESOLUTION NO. 94-176

(Support for Position Paper on the National Welfare Reform Act)

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APPROVED on the 24th day of May, 1994

DISAPPROVED at 3:31 o'clock, P.M.

Sylvester Listo
SYLVESTER LISTO, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 24th day of
May, 1994, at 3:45 o'clock, P.M.

Yvonne Allen for:
Teresa M. Choyguha, Legislative Secretary

ACTION: SUPPORT FOR POSITION PAPER ON THE NATIONAL WELFARE REFORM ACT

MOVED: COUNCILMAN WILLARD ANITA

SECOND: COUNCILWOMAN FRANCES FRANCISCO

DATE: MAY 23, 1994

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 151.0	1. WILLARD JUAN, SR. (Delbert Thomas)	75.5	X			
	2. MARY ANN ANTONE (Nellie Miguel)	75.5	X			X
SELLS 290.0	1. ANDREW M. PATRICIO (Lucille Encinas)	145.0	X			
	2. JOSEPH T. JOAQUIN (Allen W. Garcia, Jr.)	145.0	X			X
SCHUK TOAK 113.0	1. FRANCES FRANCISCO ()	56.5	X			
	2. KENNETH J. ANTONE ()	56.5	X			
SAN XAVIER 135.0	1. EUGENE ENIS, SR. ()	67.5	X			X
	2. DENNIS RAMON ()	67.5	X			
BABOQUIVARI 230.0	1. FRANCES MIGUEL ()	115.0	X			X
	2. EARL A. FRANCISCO ()	115.0	X			
GU ACHI 180.0	1. WILLARD ANITA ()	90.0	X			
	2. ALEX J. RAMON (Marian Johnson)	90.0	X			X
PISINEMO 128.0	1. CHESTER ANTONE (Fernando Valentine)	64.0	X			
	2. JOHNSON M. JOSE (Roseleen Antone)	64.0	X			
SAN LUCY 98.0	1. JOHN RENO ()	49.0	X			X
	2. ALBERT MANUEL, JR. (Ernestine Marquez)	49.0	X			
GU VO 124.0	1. EMILIO LEWIS ()	62.0	X			
	2. MICHAEL FLORES (Fern Salcido)	62.0	X			X
HICKIWAN 136.0	1. MANUEL OSEQUEDA, JR. ()	68.0	X			X
	2. LLOYD FRANCISCO ()	68.0	X			
CHUKUT KUK 178.0	1. ALBERTA M. LOPEZ (Berdella Jose)	89.0	X			
	2. KENNETH WILLIAMS ()	89.0	X			
TOTAL		1,763.0	1,763.0	-0-	-0-	08

**PASSED VOTES