

Legislative Appendix A

SEC. _____. PURPOSES.

The purposes of this Act are—

- (1) to acknowledge the chronic failure of the Federal Government to fulfill its trust and treaty obligations to American Indians and Alaska Natives and Tribal Nations;
- (2) to ensure progress toward the fulfillment of trust and treaty obligations of the Federal Government;
- (3) to ensure progress toward adequate funding for programs for American Indians and Alaska Natives and Tribal Nations;
- (4) to reaffirm and uphold Tribal sovereignty and self-governance; and
- (5) to acknowledge the broken promises of the Federal Government to Tribal Nations, as embodied by—
 - (A) the failure to fund programs that should have been fully funded in exchange for the loss of life; and
 - (B) the ceded lands and natural resources of American Indians and Alaska Natives
- (6) [*Additional provisions*].

Legislative Appendix B

SEC. _____. FINDINGS.

Congress finds that—

(1) in December 2018, the United States Commission on Civil Rights issued a report entitled “Broken Promises: Continuing Federal Funding Shortfall for Native Americans”, which made a number of important findings, which are related the findings described in paragraphs [] through [];

(2) the unique government-to-government relationship between the Federal Government and Tribal Nations, and the trust responsibility and obligations of the Federal Government, are—

(A) established in treaties signed by the United States; and

(B) enumerated in the United States Constitution, Executive orders, Supreme Court precedent, and Federal regulations;

(3) Federal programs designed to support the social and economic well-being of American Indians and Alaska Natives and Tribal Nations remain chronically underfunded and sometimes inefficiently structured, which—

(A) leaves many basic obligations of the Federal Government in Indian country and urban areas with large populations of American Indians and Alaska Natives unmet; and

(B) contributes to the inequities observed in Native American communities;

(4) funding for Native American programs often comes with restrictions that hamper Tribal access to funds;

(5) Congress often provides funding for Native American programs in a manner that makes long-term planning and budgeting impossible or exceedingly difficult for Tribal governments, Tribal organizations, and urban Indian organizations;

(6) the Federal Government continues to fail to keep accurate, consistent, and comprehensive records of Federal spending on Native American programs, either for a given fiscal year or for longer time periods, making monitoring of Federal spending to meet the trust responsibility and obligations of the Federal Government difficult; and

(7) *[Additional provisions]*.

Legislative Appendix C

SEC. _____. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) Tribal Nations are distinct sovereigns that have a government-to-government relationship with the Federal Government;

(2)(A) the Federal Government has trust and treaty obligations to Tribal Nations that are established in treaties signed by the United States and enumerated in the Constitution of the United States, Executive orders, Supreme Court precedent, and Federal regulations; and

(B) those treaties, like all treaties made under the authority of the United States, are the supreme law of the land, as recognized in article VI of the Constitution of the United States;

(3)(A) the Federal Government has historically failed to carry out its promises and trust and treaty obligations to American Indians and Alaska Natives and Tribal Nations; and

(B) those failures—

(i) are ongoing, as the Federal Government continually fails to adequately support the social and economic well-being of American Indians and Alaska Natives and Tribal Nations; and

(ii) have created a civil rights crisis;

(4) the historical failures of the Federal Government described in paragraph (3) include—

(A) successive oppressive government policies, such as the allotment and assimilation, termination, and relocation eras; and

(B) an ongoing failure to acknowledge that the land and natural resources that generations of Americans have enjoyed, the land and natural resources that makes up the United States, were once Indian land and natural resources;

(5) the Federal Government must do far more to live up to its trust and treaty obligations to American Indians and Alaska Natives and Tribal Nations, for just as the United States expects all nations to live up to their own treaty obligations, the United States should live up to its own; and

(6) [*Additional provisions*].

Legislative Appendix D

SEC. _____. OFFICE OF MANAGEMENT AND BUDGET OFFICE OF TRIBAL AFFAIRS.

(a) Establishment.—There is established in the Office of Management and Budget the Office of Tribal Affairs.

(b) Administrator.—

(1) IN GENERAL.—The Office of Tribal Affairs shall be headed by an Administrator, who shall be known as the Administrator of Tribal Affairs (referred to in this section as the “Administrator”).

(2) CAREER POSITION.—The position of Administrator shall be a career position in the Office of the Director of Management and Budget.

(c) Duties.—The Director of the Office of Management and Budget shall delegate to the Administrator responsibility for—

(1) coordinating with the rest of the Office of Management and Budget and the rest of the Executive branch on matters of funding for Federal programs and policy affecting American Indians and Alaska Natives;

(2) compiling authoritative data on all Federal funding for Federal programs affecting American Indians and Alaska Natives;

(3) ensuring that the budget requests of the Indian Health Service and the Bureau of Indian Affairs indicate—

(A) how much Federal funding is needed for Federal programs affecting American Indians and Alaska Natives to be fully funded; and

(B) how far the Federal Government is from achieving that full funding;

(4) ensuring that personnel from the Office of Tribal Affairs accompany Office of Management and Budget examiners to meetings with Federal agencies during the budget development process; and

(5) carrying out the additional responsibilities described in subsections (d) through (g).

(d) Annual Crosscutting Document.—

(1) IN GENERAL.—Each fiscal year, the Administrator shall prepare a crosscutting document containing detailed information, based on data from all Federal agencies, on the amount of Federal funding that is reaching Tribal Nations, Tribal organizations, and urban Indian organizations.

(2) REQUIREMENTS.—The document prepared under paragraph (1) shall—

(A) be provided at the most granular level practicable;

(B) indicate how funding is obligated, such as by grant or by formula;

(C) indicate whether Tribal Nations are competing against other Tribal Nations for the same pool of funds; and

(D) indicate whether Tribal Nations are competing against States or units of local government for the same pool of funds and, if so, what percentage of the pool of funds went to the Tribal Nations.

(3) PUBLIC AVAILABILITY.—The document prepared under paragraph (1) shall be made publicly available.

(e) Addition to OMB Analytical Perspectives Volume of Budget.—The Administrator shall ensure that the Analytical Perspectives volume prepared by the Office of Management and Budget for the budget of the President each fiscal year includes provisions on the subject of aid to Tribal governments, which shall include the information contained in the annual crosscutting document required under subsection (d) for that fiscal year.

(f) OMB Tribal Consultation Policy.—

(1) IN GENERAL.—The Administrator, in consultation with Tribal Nations, shall develop a Tribal consultation policy applicable to the Office of Management and Budget that governs—

(A) the interactions of the Office of Management and Budget with Tribal Nations;
and

(B) the work of the Office of Management and Budget that has an impact on Tribal Nations.

(2) APPROVAL.—The Tribal consultation policy developed under paragraph (1) shall take effect only on the approval of the Director of the Office of Management and Budget.

(g) Report.—Not later than 1 year after the date of enactment of this Act, the Administrator shall publish a report—

(1) detailing what percentage of Federal funding for programs affecting American Indians and Alaska Natives is provided to States for pass-through funding to Tribal Nations;
and

(2) presenting options for Congress and the Executive branch—

(A) to eliminate or reduce that State pass-through funding; and

(B) instead to provide direct funding to Tribal Nations.

Legislative Appendix E

SEC. _____. GAO AUDIT OF CROSSCUTTING INFORMATION.

Not less frequently than once every 3 years, the Comptroller General of the United States, in consultation with Tribal Nations, shall audit the information included in each of the annual crosscutting documents prepared under section 8(d) during the preceding 3 years to ensure the information is accurate.

Legislative Appendix F

SEC. _____. WHITE HOUSE COUNCIL ON NATIVE AMERICAN AFFAIRS.

(a) In General.—The provisions of Executive Order 13647 (78 Fed. Reg. 39539 (July 1, 2013)) (as in effect on June 26, 2013) are enacted into law.

(b) Publication.—In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end an appendix setting forth the text of the Executive order referred to in subsection (a) (as in effect on June 26, 2013).

Legislative Appendix G

SEC. _____. DEPUTY SECRETARY FOR TRIBAL NATIONS IN THE DEPARTMENT OF THE INTERIOR.

(a) Establishment.—There is established in the Department of the Interior (referred to in this section as the “Department”) the position of Deputy Secretary for Tribal Nations, who shall—

- (1) report immediately to the Secretary of the Interior; and
- (2) be equal with the Deputy Secretary of the Interior.

(b) Duties.—The Secretary of the Interior shall delegate to the Deputy Secretary for Tribal Nations responsibility for—

- (1) honoring Indian treaty relations, supporting Indian self-determination, promoting Indian economic self-sufficiency, and overseeing all Indian affairs covered by the Department;
- (2) coordinating with cabinet-level officials to ensure the effective provision of Federal support for Tribal self-government and Tribal programs and services under the Department; and
- (3) implementing Indian treaties, statutes, regulations, Executive and Secretarial orders, programs, and other Indian affairs powers.

(c) Authority.—

(1) IN GENERAL.—The Deputy Secretary for Tribal Nations shall oversee the following offices and functions:

- (A) Assistant Secretary for Indian Affairs.
- (B) Bureau of Indian Affairs.
- (C) Bureau of Indian Education.
- (D) Office of the Special Trustee for American Indians.
- (E) Office of Self-Governance.

(2) ADDITIONAL AUTHORITY.—The Deputy Secretary for Tribal Nations shall coordinate the Indian affairs activities of the White House Council on Native American Affairs for the President, Vice President, and cabinet-level officials, subject to the immediate direction of the Secretary of the Interior.

Legislative Appendix H

SEC. ____ .TIWAHE INITIATIVE.

(a) In General.—There is authorized to be appropriated to carry out the Tiwahe Initiative of the Bureau of Indian Affairs, and there is appropriated, out of any monies in the Treasury not otherwise appropriated, [\$____] for fiscal year [____] and each fiscal year thereafter.

(b) Adjustment for Inflation.—The amount made available under subsection (a) for fiscal year 2021 and each fiscal year thereafter shall be adjusted annually to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

Legislative Appendix I

SEC. _____. TRIBAL ACCESS PROGRAM.

(a) In General.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

“(g) Authorization of Appropriations.—There is authorized to be appropriated, and there is appropriated, out of any monies in the Treasury not otherwise appropriated, [\$_____], to remain available until expended, for the purposes of enhancing the ability of tribal government entities to access, enter information into, and obtain information from, Federal criminal information databases, as authorized by this section.”.

(b) Indian Tribe and Indian Law Enforcement Information Sharing.—Section 534 of title 28, United States Code (as amended by subsection (a)) is amended by striking subsection (d) and inserting the following:

“(d) Indian Tribe and Indian Law Enforcement Information Sharing.—The Attorney General shall permit Tribal law enforcement entities (including entities designated by a Tribe as maintaining public safety within the territorial jurisdiction of the Tribe that has no Federal or State arrest authority) and Bureau of Indian Affairs law enforcement agencies—

“(1) to access and enter information into Federal criminal information databases; and

“(2) to obtain information from the databases.”.

Legislative Appendix J

SEC. _____. MANDATORY FUNDING FOR INDIAN HEALTH SERVICE.

(a) Establishment.—There is established in the Treasury an account, to be known as the “Indian Health Services Operations Account”, into which shall be deposited all amounts appropriated or otherwise made available, as of the date of the enactment of this Act, to carry out the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) and any other program relating to or operated by the Indian Health Service.

(b) Appropriation.—There is authorized to be appropriated, and there is appropriated, out of any monies in the Treasury not otherwise appropriated, the following amounts, which shall be deposited in the Indian Health Services Operations Account:

(1) For fiscal year 2021, [\$_____].

(2) For fiscal year 2022, [\$_____].

(3) For fiscal year 2023, [\$_____].

(4) For fiscal year 2024, [\$_____].

(5) For fiscal year 2025, [\$_____].

(6) For fiscal year 2026, [\$_____].

(7) For fiscal year 2027, [\$_____].

(8) For fiscal year 2028, [\$_____].

(9) For fiscal year 2029, [\$_____].

(10) For fiscal year 2030, [\$_____].

(11) For fiscal year 2031, [\$_____].

(12) For fiscal year 2032, [\$_____].

(13) For fiscal year 2033 and each fiscal year thereafter, an amount equal to the sum of—

(A) the amount appropriated for the previous fiscal year, as adjusted annually to reflect the change in the medical care component of the consumer price index for all urban consumers (U.S. city average); and

(B) as applicable—

(i) 1.8 percent of the amount appropriated for the previous fiscal year; or

(ii) the percentage of the amount appropriated for the previous fiscal year determined under subsection (c)(2).

(c) Adjustments After Fiscal Year 2032.—

(1) STUDY.—Not later than September 30, 2031, and not less frequently than once every 10 years thereafter, the Comptroller General of the United States shall conduct a study to determine whether the population served by the Indian Health Service has continued to grow by 1.8 percent per year.

(2) ADJUSTMENT.—If the Comptroller General determines under the study conducted under paragraph (1) that the actual rate of growth of the population described in that paragraph is higher than 1.8 percent, for purposes of subsection (b)(13)(B)(ii), the percentage by which the amount appropriated for the previous fiscal year shall be adjusted shall reflect the actual rate of growth determined by the study.

(d) Shortfalls and Report.—

(1) IN GENERAL.—Not later than the end of fiscal year [____], the Secretary of Health and Human Services shall submit to [the Committee on the Budget of the Senate and?] the Committee on the Budget of the House of Representatives a report that proposes an item of appropriation for shortfalls for funds related to the lease of a facility used for administration and delivery of Indian Health Service programs pursuant to section 105(l) of the Indian Self-Determination Act (25 U.S.C. 5324(l)), including supporting documentation on the methods used by the Secretary of Health and Human Services to determine [the amount of shortfalls?].

[(2) ADDITIONAL APPROPRIATIONS.—

[(A) FACILITY LEASING.—

[(i) IN GENERAL.—In addition to the amount appropriated for a fiscal year for the Indian Health Services Operations Account, there is authorized to be appropriated for fiscal year [____], and each fiscal year thereafter, and there is appropriated, out of any monies in the Treasury not otherwise appropriated, the amount requested by the report under paragraph (1). [SLC note: You might consider running this clause past CRS. There may be some plenary spending powers delegation issues in allowing an Executive agency to establish the amount appropriated.]]

[(ii) ADJUSTMENT FOR INFLATION.—The amount made available under clause (i) for fiscal year [____] and each fiscal year thereafter shall be adjusted annually to reflect the change in the medical care component of the consumer price index for all urban consumers (U.S. city average).]

[(B) CONTRACT SUPPORT COSTS.—In addition to the amount appropriated for a fiscal year for the Indian Health Services Operations Account, there is authorized to be appropriated for fiscal year [____], and each fiscal year thereafter, for contract support costs described in section 106 of the Indian Self-Determination Act (25 U.S.C. 5325) an amount determined by the Secretary of the Interior to cover any shortfalls for the operation of the programs and portions for periods covered by the contract support costs. [SLC note: You might consider running this subparagraph past CRS. There may be some plenary spending powers delegation issues in allowing an Executive agency to establish the amount authorized to be appropriated.]]

Legislative Appendix K

SEC. _____. SPECIAL DIABETES PROGRAMS FOR INDIANS.

Section 330C of the Public Health Service Act (42 U.S.C. 254c-3) is amended—

(1) in subsection (c)(2)—

(A) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting appropriately;

(B) in the matter preceding clause (i) (as so redesignated), by striking “For the purpose” and inserting the following:

“(A) IN GENERAL.—For the purpose”;

(C) in subparagraph (A) (as so redesignated)—

(i) in clause (iii) (as so redesignated), by striking “and” at the end;

(ii) in clause (iv) (as so redesignated), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(v) subject to subparagraph (B), [\$_____] for fiscal year [_____] and each fiscal year thereafter, to remain available until expended.”; and

(D) by adding at the end the following:

“(B) ADJUSTMENT FOR INFLATION.—The amount authorized to be appropriated under subparagraph (A)(v) for each of fiscal years [_____] through [_____] shall be adjusted annually to reflect the change in the medical care component of the consumer price index for all urban consumers (U.S. city average).”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

“(c) Requirement.—Grants provided under subsection (a) shall be subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)).”.

Legislative Appendix L

SEC. _____. HOUSING BLOCK GRANT PROGRAMS.

(a) Indian Housing Block Grant Program.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended to read as follows:

“SEC. 108. FUNDING.

“(a) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as are necessary to provide grants under this title for each of fiscal years 2021 through 2029.

“(b) Mandatory Funding for Fiscal Year 2020.—

“(1) IN GENERAL.—On October 1, 2020, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to provide grants under this title \$2,500,000,000, to remain available until expended.

“(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to provide grants under this title the funds transferred under paragraph (1), without further appropriation.”.

(b) Native Hawaiian Housing Block Grant Program.—Section 824 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4243) is amended by striking “such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005” and inserting “\$8,000,000 for fiscal year []”.

Legislative Appendix M

SEC. _____. RESTORING AUTHORITY TO ADMINISTER VOUCHER PROGRAMS.

Section 502 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181) is amended by adding at the end the following:

“(c) Applicability.—Subsections (a) and (b) shall not apply with respect to tenant-based assistance provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).”.

Legislative Appendix N

SEC. _____. COORDINATED ENVIRONMENTAL REVIEW PROCESS WORKGROUP.

(a) Establishment.—There is established a workgroup, to be known as the “Coordinated Environmental Review Process Workgroup” (referred to in this section as the “Workgroup”), consisting of the head (or a designee) of each of—

- (1) the Department of Agriculture;
- (2) the Department of Commerce;
- (3) the Department of Energy;
- (4) the Department of Health and Human Services;
- (5) the Department of Housing and Urban Development;
- (6) the Department of the Interior;
- (7) the Department of Transportation;
- (8) the Council on Environmental Quality; and
- (9) the Environmental Protection Agency.

(b) Chairperson.—The Secretary of Housing and Urban Development (or a designee) shall—

- (1) serve as chairperson of the Workgroup; and
- (2) be responsible for convening meetings and coordinating the activities of the Workgroup.

(c) Duties.—The Workgroup shall—

- (1) assess whether each member agency of the Workgroup has adopted the recommendations made in the report entitled “Coordinated Environmental Review Process Final Report” and dated December 15, 2015, prepared by the Department of Housing and Urban Development, in collaboration with the Coordinated Environmental Review Process Workgroup established pursuant to Senate Report 113–182 (2014), accompanying S. 2438, 113th Congress;
- (2) to the extent that any recommendation described in paragraph (1) has not been implemented, establish a plan for implementation of the recommendation; and
- (3) prepare and submit to Congress the reports required under subsection (d).

(d) Reports.—

(1) INITIAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Housing and Urban Development, in collaboration with the Workgroup, shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report describing—

- (A) the results of the assessment under subsection (c)(1); and

(B) any plan established under subsection (c)(2).

(2) UPDATES.—Not later than 1 year after the date of submission of the report under paragraph (1), and not less frequently annually thereafter, the Secretary of Housing and Urban Development, in collaboration with the Workgroup, shall submit to the Committees described in that paragraph an updated report in accordance with that paragraph.

Legislative Appendix O

SEC. ____ . NATIVE AMERICAN COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS ASSISTANCE PROGRAM.

(a) Non-Federal Share.—Section 108(e) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4707(e)) is amended—

(1) in paragraph (1)—

(A) in the third sentence, by striking “The Fund shall provide no assistance” and inserting the following:

“(iii) PROHIBITION.—Subject to subparagraph (B), no assistance may be provided by the Fund”;

(B) in the second sentence, by striking “Such matching funds” and inserting the following:

“(ii) FORM.—The matching funds required under clause (i)”;

(C) by striking the paragraph designation and heading and all that follows through “Assistance” in the first sentence and inserting the following:

“(1) MATCHING REQUIREMENT.—

“(A) REQUIREMENT.—

“(i) IN GENERAL.—Subject to subparagraph (B) and paragraph (2), assistance”;
and

(D) by adding at the end the following:

“(B) WAIVER FOR CERTAIN INDIVIDUALS AND ENTITIES.—The requirements of subparagraph (A) shall not apply to any individual or entity using the assistance provided under this section only for the benefit of Indians or an Indian tribe.”; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking “paragraph (1)” and inserting “paragraph (1)(A)”.

(b) Funding.—Section 121 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4718) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) Funding for Indians.—

“(1) IN GENERAL.—There are authorized to be appropriated, and there are appropriated, out of any monies in the Treasury not otherwise appropriated, to the Fund for the purpose of providing financial assistance, technical assistance, training, and outreach programs to benefit Indian tribes, primarily through qualified community development lender organizations with experience and expertise in community development banking and lending in Indian country, Indian organizations, Indian tribes, tribal organizations, and other appropriate individuals and entities—

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“(A) for fiscal year 2021, [\$ ____];

“(B) for fiscal year 2022, [\$ ____];

“(C) for fiscal year 2023, [\$ ____];

“(D) for fiscal year 2024, [\$ ____]; and

“(E) for fiscal year 2025 and each fiscal year thereafter, [\$ ____], subject to paragraph (2).

“(2) ADJUSTMENT FOR INFLATION.—The amounts made available under paragraph (1)(E) for fiscal year 2026 and each fiscal year thereafter shall be adjusted annually to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.”.

Legislative Appendix P

SEC. _____. FUNDING FOR CLAIMS RESOLUTION ACT OF 2010.

Section 101(e)(1) of the Claims Resolution Act of 2010 (Public Law 111–291; 124 Stat. 3067) is amended—

(1) in subparagraph (B), by striking “10-year” and inserting “20-year”; and

(2) in subparagraph (C), by adding at the end the following:

“(iii) ADDITIONAL APPROPRIATION.—In addition to amounts deposited in the Trust Land Consolidation Fund under clause (i) and subparagraph (D), not later than 1 year after the date of enactment of this clause, the Secretary of the Treasury shall deposit in the Trust Land Consolidation Fund \$1,900,000,000.”.