



National Congress of American Indians

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Action Alert

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Means Testing Raised at Senate Interior Appropriations Subcommittee Markup

At the June 7th mark up of the FY 2006 Interior Appropriations bill by the Senate Interior Subcommittee, Senator Domenici (R-NM) called for a change in the distribution of federal funding to tribes. Specifically, Domenici stated, "I think it's time to look at perhaps a new formula that gives those who don't have the benefit of casinos a larger share of the government's assistance," and that "gaming tribes are getting the same amount of money distributed to them under old formulas." These statements allude to the concept of means testing, an initiative which was raised by Senator Slade Gorton in 1999 but was turned back by tribes. NCAI continues to oppose means testing tribal programs that are funded as part of the United States' trust responsibility.

Applying means testing to federal funding to tribes would violate treaty responsibilities and the Federal trust relationship with tribes. The benefits, protections and services provided to tribal governments are based on Indian tribes' status derived from and supported in the Constitution, treaties, and other federal law. The federal government has a duty to protect that status, including the provision of payments in return for the cession of vast expanses of land to the federal government. To impose a means test on payments to Indian tribes would be a breach of that duty owed to Indian tribes, reversing more than 200 years of Federal Indian policy.

Means testing also unfairly targets Indian tribes. States and counties are not subjected to a means test when they collect more taxes. States often generate surpluses, which are sometimes returned to their citizens without affecting the state's federal funding. Notably, Congress has never proposed funding state governments based on which states have legalized gambling or lotteries. To subject tribal governments to a means test would have the discriminatory effect of singling tribes out for treatment not accorded to states, counties, cities or other units of government.

Means testing would also fail to consider needs. Although some tribes are generating important revenues, by and large, Indian communities are relatively poor and are struggling to address decades of neglect in education, health care, roads and infrastructure. To means test federal outlays to Indian tribes at a time when tribal governments are beginning to rebuild their economies and infrastructure would create a federal disincentive to tribal economic development and push tribes back into the dire circumstances from which they are attempting to rise.

This issue is likely to generate more discussion in the Tribal/BIA Budget Advisory Council. NCAI urges you to contact your Senators asking them to oppose means testing for the funding of federal Indian programs against the governmental revenue generated from gaming. Attached is a draft letter to use. If you have any questions, call Amber Ebarb at 202-466-7767 or email aebarb@ncai.org.

Senate Interior Appropriations Committee Fax: (202) 228-4532
The Honorable Conrad Burns/Chairman: Fax (202) 224-8594
The Honorable Byron L. Dorgan/Ranking Member: Fax (202) 224-1193
The Honorable Pete V. Domenici: Fax (202) 228-3261
The Honorable Mike Crapo: Fax (202) 228-1375
The Honorable {your local Senator}

Dear Senator:

I write on behalf of {tribe or affiliation here} to express concern over statements made at the June 7th mark up of the FY 2006 Interior Appropriations bill by the Senate Interior Subcommittee alluding to means testing federal aid to tribes against the governmental revenue generated from Indian gaming. Statements were made to look at a new formula “that gives those [Tribes] who don’t have the benefit of casinos a larger share of the government’s assistance.”

Our tribe fundamentally opposes means testing federal funding for tribal programs. Applying means testing to federal funding to tribes would violate treaty responsibilities and the Federal trust relationship with tribes. The benefits, protections and services provided to tribal governments are based on Indian tribes’ status derived from and supported in the Constitution, treaties, and other federal law. The federal government has a duty to protect that status, including the provision of payments in return for the cession of vast expanses of land to the federal government. To impose a means test on payments to Indian tribes would be a breach of that duty owed to Indian tribes, reversing more than 200 years of Federal Indian policy.

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We urge you to consider these points when considering the funding formula for tribal programs. We also urge you to oppose any type of means testing for the funding of federal Indian programs against the governmental revenue generated from gaming. Thank you for your consideration of our tribe’s view on this issue.

Sincerely,

Bcc: Amber Ebarb, National Congress of American Indians, Fax: 202-466-7797