



Child and Family Policy

Update May 2025

An electronic copy of this update can be found on the National Indian Child Welfare Association's (NICWA) website at <https://www.nicwa.org/child-and-family-policy-updates/>

Hot Topics

House Budget Reconciliation Bills Provide First Glimpse of Budget Cuts and Policy Priorities

House Committees charged with drafting legislation to meet President Trump's tax, defense, and border security policy goals are moving newly drafted legislation to committee votes during the week of May 13. The House Ways and Means Committee, which has jurisdiction over taxation and human service programs under the Social Security Act, just released the [Chairman's Mark](#), which includes priorities that House Ways and Means Committee Chairman, Jason Smith (R-MO), is focused on that meet the President's policy goals. As part of the President's priority to pass tax cuts this year, the Republican leadership in the House and Senate have been examining cuts to larger human services programs, like Medicaid, Head Start, Temporary Assistance to Needy Families (TANF), and the Social Services Block Grant (SSBG). The cuts to large federal health and human service programs are needed to offset the costs of tax cuts and other priorities of the President's which have significant costs. The House Ways and Means Committee Chairman's Mark surprised many advocates because it did not contain cuts to TANF or SSBG which had been discussed earlier. While this may help protect these programs from budget cuts that are being used to help pay for tax provisions, the process of passing the legislation in the House still has a long way to go with other House Committees needing to introduce and hold committee votes on their bills and the full House needing to vote on all of the legislation that comes out of committee. This process will also allow for consideration of amendments to the committee bills on the House floor. Other House Committees, like House Energy and Commerce, oversee Medicaid, which has been discussed for large budget cuts previously, are also planning the introduction of legislation and scheduling a vote on their bill. House Speaker Johnson (R-LA) set a goal of having all of the House budget reconciliation bills finished and approved by the end of May, which may be a difficult task with many Republican members split on how to achieve priorities in budget reconciliation. You can find a copy of NICWA's letter to the House Ways and Means Committee urging the preservation of federal programs that tribal nations receive funding from [here](#).

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The process of budget reconciliation is being used to help pass tax cuts and support the President's immigration, defense, and energy priorities. The budget reconciliation process allows Congress, in particular the Senate, to pass legislation with only 51 votes instead of the usual 60 votes needed. While 51 votes is still a majority in the Senate, they have rules that allow members to filibuster legislation, which can significantly delay a vote. To end a filibuster, the Senate needs 60 votes to achieve what is referred to as "cloture" to end the filibuster. Currently, Senate Republicans only have 53 seats out of 100 Senate seats, and moving to a vote, especially on legislation that is more controversial, requires 60 votes.

While the budget reconciliation process allows the Senate to move legislation more easily, it has rules that limit the types of legislative provisions that can be included in a bill. Only legislative matters that change federal spending or revenue can be included, which also includes changing the federal deficit or debt-ceiling amounts. This means items like tax cuts that reduce federal revenue or increased spending on border security or defense issues can be included. What can't be included is changes in federal law that do not have a direct impact on federal revenue, spending, deficit, or debt-ceiling limit.

To start the budget reconciliation process, the Senate and House need to pass budget resolutions that identify the amounts of increases or decreases in spending and revenue. The Senate passed their budget resolution on February 21, 2025 ([S. Con. Res. 7](#)) and the House passed theirs on February 25, 2025 ([H. Con. Res. 14](#)). The House budget resolution contains charts that outline how much savings or increases each committee has, which they use as they develop legislation to be included in the final budget reconciliation bill. The committees focus on federal programs under their jurisdiction.

The House budget resolution asks for dramatic cuts in federal spending in several areas. To reach cost savings outlined in the budget resolution, House and Senate committees would need to cut spending on many domestic programs including childcare, Temporary Assistance to Needy Families (TANF), Medicaid, student loan programs, Supplemental Nutrition Assistance Program (SNAP) formerly referred to as food stamps), and several others. Lists of programs facing potential cuts have been circulating widely for some time and most of the programs affected are those that provide assistance to poor or vulnerable populations. Even if the Senate and House can find \$1.5 –\$2.0 trillion in spending cuts, the tax cuts and other Trump administration priorities will require at least \$4.5 trillion to be fully offset. Spending cuts like these, if approved by Congress, will have profound effects upon Native children and families whether they are served by tribal nations or states.

NICWA urges tribal nations and Native child and family advocates to contact their House and Senate members soon and urge them to resist cuts to federal programs that serve children and families in budget reconciliation, like those identified above. The budget reconciliation legislation is now becoming available to the public with House committee votes being scheduled starting May 13. NICWA urges quick action to inform House and Senate members, as budget reconciliation process is moving quickly. You can find contact information for your Congressional members [here](#).

Trump Administration Executive Orders Causing Concern in Indian Country

Starting with President Trump's first day in office on January 20, 2025, his Administration began issuing numerous Executive Orders and other policies that are expanding the scope of the Executive Branch's authority in the federal government and challenging constitutional norms regarding the powers of the Executive Branch. These actions are putting roadblocks up to accessing federal funding authorized for tribal nations by Congress, eliminating federal staff positions that help oversee and administer federal programs for tribal nations, and freezing regulations and other policies that benefit tribal nations. As of May 13, 2025, the Administration has issued 147 Executive Orders and the number is expected to grow. You can find a regularly updated list of Executive Orders [here](#).

Key Executive Orders and administrative policies that have impacts for tribal nation human service programs and Native children and families:

- [Office of Management and Budget Memorandum \(M-25-13\) on Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs](#): The Office of Management and Budget (OMB) memo M-25-13 instructed federal agencies to temporarily pause federal funding and assistance while simultaneously conducting an assessment to determine individual federal funding and assistance compliance with Executive Orders. If federal funding or assistance was found to not be aligned with existing Executive Orders it was ordered to be cancelled, including funding or assistance already authorized by Congress. Two days after OMB memo M-25-13 was first issued, it was rescinded by OMB, but later that same day the Trump Administration said it would continue the freeze on federal funding. Several federal programs that support tribal human services programs were caught up in this funding freeze initially. While many of these federal programs have begun distributing funding to tribal nations, there are still federal programs that serve Native populations that are not able to draw down their federal funding, creating confusion and uncertainty about whether these funds will be available in the future.
- [Executive Order 14151](#) Ending Radical and Wasteful Government Diversity, Equity and Inclusion (DEI) Programs and Preferencing and [Executive Order 14173](#) Ending Illegal Discrimination and Restoring Merit-Based Opportunity. These Executive Orders require federal agencies to assess programs, grants, and contracts within their agencies for DEI promotion or activities and eliminate the programs and funding that supports them. While tribal nations and Native people have a unique political status that is the basis for federal programs and policies that address their needs and is separate from their racial status, there are numerous reports of federal programs and activities related to tribal nations being canceled based upon them being considered DEI-related. This may also have an impact on technical assistance or other services being offered by Native organizations under contract with the federal government.
- [Executive Order 14170](#) Reforming the Federal Hiring Process and Restoring Merit to Government Service and [Executive Order 14210](#) Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative: While tribal nations and Native people have a unique political status that is the basis for

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federal programs and policies that address their needs and is separate from their racial status, there are concerns that the language in the Executive Order does not address the unique status of Indian Preference in hiring that is separate from hiring prohibitions based upon race, sex, or religion. Executive Order 14210 seeks to reduce the federal workforce dramatically, requiring federal agency heads to consult with and seek approval for new hires from the newly created Department of Government Efficiency (DOGE). This could impede the hiring of federal staff with relevant experience in the support and administration of federal programs tribal nations access.

- **Regulatory Freeze Pending Review Memorandum** and Executive Order 14192 Unleashing Prosperity Through Deregulation: The regulatory freeze will impact any regulations that were not published in the Federal Register prior to January 20, 2025, or any that were published, but did not go into effect within 60 days from January 20, 2025. The Executive Order seeks to repeal 10 regulations for each new regulation promulgated during this Administration. For this to occur, many existing regulations would need to be eliminated or scaled back considerably. The Executive Order could impact existing regulations that provide protection and support to Native children and families, including the recently promulgated Adoption and Foster Care Analysis and Reporting System (AFCARS) regulations that established requirements for states to report on the status of Native children and families in their child welfare systems.
- **Repeal of Richardson Waiver in the regulatory process at HHS:** The Richardson Waiver has been used for a number of years to promote greater public knowledge and input into the federal agency regulatory process. Among other things, it allows public comments on proposed regulation changes. The Department of Health and Human Services has issued a Rule (policy statement) revoking the use of the Richardson Waiver and reducing or eliminating the use of public comments in the regulation process going forward. This will severely limit the ability of tribal nations to comment on HHS regulation changes and raises concerns about changes being made to regulations that introduce barriers to tribal access and operation of federal programs and weaken protections for Native people contained in existing federal regulations.

Following the release of these Executive Orders, newly confirmed Secretary for the Department of Interior (DOI), Doug Bergum, issued **Secretary's Order 3415** that exempts the Department's treaty and trust obligations to tribal nations from DEI policies identified in Presidential Executive Order 14151. Following the DOI Order, the Office of General Counsel for the Department of Health and Human Services (HHS) issued an **advisory opinion** (25-01) in response to a question about the application of Executive Order 14151 to Indian Health Services programs. In their opinion, they state that Executive Order 14151 and a number of related Executive Orders should not be interpreted to rescind, eliminate, hinder, or impair the Department's legal obligations to tribal nations. While these departmental orders and opinions are helpful, there are still questions about how the policies of the new Administration will impact tribal nation human service program funding, federal staffing for programs that tribal nations administer, and changes for state programs that will trickle down to Native children and families in state human service systems.

If your tribe or urban Native organization is seeing impacts from these or other Executive Orders, you can provide information to the Senate Committee on Indian Affairs by emailing them at oversight@indian.senate.gov. The Committee is tracking impacts to Indian Country from Executive Orders and communicating concerns to the Administration. All information provided will be held confidential. You can also contact NICWA Government Affairs and Community Development Specialist Evan Roberts at evan@nicwa.org, to provide information on your experiences. While we appreciate concerns that tribes and urban Native organizations have about sharing this kind of information, it is critical to being able to provide accurate and impactful advocacy to remove barriers and address concerns.

Legislative

President Signs Child Welfare Legislation into Law with Tribal Support

On January 4, 2025, President Biden signed into law the [Supporting America's Children and Families Act](#) (P.L. 118-258). The legislation reauthorizes two child welfare programs under Title IV-B of the Social Security Act that provide some of the most flexible federal funding for tribes and states to help children at risk of removal into foster care stay at home safely. The legislation contains several provisions that benefit tribal nations and Native children and families.

Key child welfare provisions in the new law include:

- Increase in mandatory funding under the Title IV-B, Subpart 2 Program (Promoting Safe and Stable Families) that will increase funding for existing tribal grantees and allow a number of new tribes to qualify to receive the funding (Section 107 and increase to overall appropriation).
- Change the current funding mechanism under Title IV-B, Subpart 1 Program (Child Welfare Services) from the outdated regulatory formula to a 3% set-aside from the overall appropriation. This will provide a small increase in tribal funding under the program (Section 107).
- Increase funding for the Tribal Court Improvement Program from \$1 million to \$2 million per year allowing more tribes to apply for and receive grant funding (Section 107).
- Allow the Secretary of the Department of Health and Human Services (HHS) to modify Title IV-B reporting requirements for tribes and states to reduce administrative burden (Sections 106 and 107).
- Require states to collect and report data related to Indian Child Welfare Act (ICWA) requirements in state child welfare cases involving Native children and families (Section 107).
- Require HHS to provide technical assistance to states and tribes for the purpose of supporting effective implementation of ICWA (Section 107).

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- Require HHS to consult with tribes on the development of guidelines to maximize the engagement of tribes in state court proceedings involving ICWA (Section 104).
- Allow tribes the option of using their federally negotiated indirect rate in the operation of Title IV-B programs (Section 107).
- Clarify tribes as eligible to apply for and receive competitive grant funding to evaluate programs or services that meet one of the evidence-based criteria under the Title IV-E Prevention Services Program (Section 108).
- Allow the Secretary of HHS to waive or modify an application requirement or matching requirement for tribal grants addressing the needs of foster children who have parents that are incarcerated (Section 113).
- Require the Secretary of HHS to use tribally relevant data in carrying out evaluation activities under a grant program addressing the needs of foster children who have parents that are incarcerated (Section 113).

In addition, the law also authorizes tribal nations to access the Treasury Offset Program (TOP) that allows states and tribes to access tax returns of parents that are behind in child support payments (Section 202). The funds are then distributed to the custodial parent. Previously, only states were allowed to utilize this program. The National Tribal Child Support Association and National Association of Tribal Child Support Directors were key supporters of this legislation.

NICWA worked on the legislation for over two years with tribal advocates to develop tribal provisions and secure passage of the legislation before the end of the congressional session last December. Reauthorizations of major child welfare laws only happen every 10 years, so it was critical that tribal voices were heard in the process.

Native American Child Protection Act Signed into Law

On December 23, 2024, President Biden signed into law the [Native American Child Protection Act](#) (P.L. 118-160). The legislation was first introduced in the House by Representative Ruben Gallego (D-AZ) and its companion bill, S. 2273, was introduced in the Senate by Senators Ben Ray Luján (D-NM) and Susan Collins (R-ME). It amends the Indian Child Protection and Family Violence Prevention Act of 1990 (P.L. 101-630) to reauthorize and reform programs for Native communities to treat and prevent child abuse, neglect, and family violence. The House passed H.R. 663 in September 2023 with significant bipartisan support, and the Senate passed it without amendment on December 17, 2024.

The grant programs outlined in the legislation are intended to fill funding gaps for tribal services by providing dedicated funding for prevention and treatment for victims of child abuse, neglect, and family violence. The Act amends the law to clarify activities that can be supported with grant funding. This includes child abuse prevention and treatment, including technical assistance and training, establishing child protection teams or multidisciplinary teams, and developing intergovernmental agreements between tribes and states to prevent, investigate, prosecute, and treat child abuse, neglect, and family violence. The Act includes

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language to make urban Indian organizations eligible for the grant programs when partnering with a tribe or tribal organization. Language in the Act also encourages the use of culturally appropriate programs and services and authorizes the establishment of a National Indian Child Resource and Family Services Center to assist Native communities through technical assistance and training.

The authorizing language in the law that provides authority to appropriate funding for the grant programs has not been reauthorized by Congress since the original passage of the legislation in 1990. NICWA has been working to reauthorize the grant programs for many years and will continue to work with the new Congress to accomplish this goal.

Reauthorization is critical to increasing appropriations for the grant programs and signaling to Congress that this is a priority program for tribal nations.

Administrative

AFCARS Final Rule on ICWA Data Elements Published

On December 5, 2024, the Biden Administration published a Final Rule restoring many of the ICWA data elements that were previously eliminated in 2020. The ICWA data elements were first approved in 2016, and then in mid-2020. 85% of the previously approved data elements were eliminated. A review of comments filed by states, tribes, child welfare organizations, and individuals during the public comment period revealed there was strong support for restoring the proposed ICWA data elements. These data elements are critical to helping the Administration for Children and Families (ACF), states, and tribes better understand how ICWA is being implemented across the country and effectively target resources to improve implementation where needed. The proposed data elements would be added to the Adoption and Foster Care Analysis Reporting System (AFCARS), which collects data from state child welfare agencies. The Final Rule goes into effect on February 5, 2025, with the first data collection period starting on October 1, 2028 (first data due to ACF on May 15, 2029). This caps over 30 years of NICWA advocacy to close the gap in data collection on Native children and families that can inform improved implementation of ICWA.

Administration for Children and Families Expands Flexibility for Tribes to Provide Cultural Services in Federal Child Welfare Programs

On July 30, 2024, the Children's Bureau published [new policies](#) in their Child Welfare Policy Manual that expand flexibility to tribes that are operating the Title IV-E program under an agreement with a state

Title IV-E agency. The new policies clarify that a tribe in an agreement with a state may provide prevention programs and services adapted to the culture and context of the tribal community served. This allows eligible tribes to use cultural programs and services beyond those approved under the [Title IV-E Prevention Services Clearinghouse](#). States can only use prevention programs and services that are approved under the Clearinghouse.

The new policy will allow tribes in agreements with states to utilize cultural programs and services that are not approved by the Clearinghouse. A tribe must still document the cultural program and services they are using, such as providing information on the program and service, how it meets the specific needs of the eligible children or caregivers, and previous outcomes that have been achieved when using the program and service. Title IV-E tribes may still use Clearinghouse-approved programs and services and culturally adapt them, but they are not limited to these. Previous guidance for tribes operating Title IV-E directly from the federal government under the statutory language (ACYF-CB-PI-18-10) is also the basis for these new policy changes. The current guidance will likely need to be updated in the future to include tribes in agreements with states and how they can utilize this new flexibility.

In 2018, Congress passed the Family First Prevention Services Program (P.L 115-123) that established a new program component within the Title IV-E Foster Care and Adoption Assistance Program. The new component allowed states and tribes with approved Title IV-E plans to seek reimbursement for eligible prevention services provided to children who were at imminent risk of placement in foster care and their parents or relative caregivers. Like other parts of Title IV-E, the funding provides reimbursement for services already provided as opposed to grant-style funding. The prevention services component of Title IV-E is optional, so not every state may opt for the funding, which determines whether a tribe in an agreement with a state will be able to operate the prevention services component. Currently, there are about 130 tribes operating Title IV-E through an agreement with a state.

Budget

President Releases “Skinny Budget” with FY 2026 Budget Priorities

President Trump released his fiscal year (FY) [budget request](#) to Congress on May 2, 2025. The budget request is one document that contains his top line budget requests for all federal departments and operations. The budget request, referred to as the “skinny budget”, does not provide individual program budget requests in many cases, only his top line requests. Within the “skinny budget” are requests to cut or eliminate several Department of Health and Human Services (HHS) and Department of Interior (DOI) programs that tribes receive funding from. Some of these include elimination of the Low Income Home Energy Assistance Program, Community Services Block Grant (basic needs and poverty reduction), Circles of Care grant program (children’s mental health system development), and Tribal Behavioral Health Grants program (grants for suicide prevention and mental health services for Native youth). There is also language in the skinny budget that suggests Bureau of Indian Affairs Social Services programs will be cut or proposed for elimination. You can find a NICWA analysis of the President’s FY 2026 budget request [here](#). You can also find a copy of a letter sent by the Coalition for Tribal Sovereignty regarding proposed budget cuts to Administration for Children and Families programs under HHS [here](#). NICWA has previously provided testimony to the House Appropriation Committee and HHS on the need to preserve funding for these programs and will be working with members of Congress to educate them about the vital role these programs play in supporting vulnerable tribal citizens. **NICWA urges tribal advocates to contact**

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their House and Senate delegation to ask that programs that tribes access not be cut or eliminated. There is little time left in this fiscal year for Congress to act on FY 2026 appropriations, so it will be critical that tribal advocates reach out to their congressional delegates very soon. You can find contact information for your Congressional members [here](#).

For more information relating to this update, please contact NICWA Director of Government Affairs and Advocacy David Simmons at desimmons@nicwa.org.