



**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**

**(Requesting the U.S. President Fully Fund Bureau of Indian Education Programs)**

**WHEREAS,** pursuant to Article IV, Section 1(a) of the Constitution of the White Mountain Apache Tribe, *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

**WHEREAS,** the United States Government has a binding Treaty and Trust responsibility and obligation to educate all Native American children forever; and

**WHEREAS,** this responsibility and obligation was most recently affirmed in P.L. 107-110, the 'No Child Left Behind Act,' wherein it is stated:

“Congress declares that the Federal Government has the sole responsibility for the operation and financial support of the Bureau of Indian Affairs funded school system. It is the policy of the United States to fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children and for the operation and financial support of the Bureau of Indian Affairs-funded school system...toward the goal of ensuring that the programs of the Bureau of Indian Affairs-funded school system are of the highest quality and provide for the basic elementary and secondary educational needs of Indian children...” (24 U.S.C.A. / 2501); and

**WHEREAS,** U.S. Department of Interior, Bureau of Indian Affairs (“BIA”) funded schools were created pursuant to P.L. 93-638 and P.L. 100-297 because, as expressly admitted in the above laws, the Federal Government failed to educate Native American children as it promised:

“The prolonged federal domination of the Indian service programs has served to retard rather than enhance the progress of Indian people and their communities... The federal responsibility for and assistance to the education of Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide.” (45 U.S.C.A / 450 P.L. 93-638, 01/04/1975)

“Congress, after careful review of the Federal Government’s historical and special legal relationship with and resulting responsibilities to, Indians, finds that – the Bureau of Indian Affairs’ administration and domination of the contracting process under such Act [25 U.S.C. § 450 *et. seq.*] has not provided the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities.” (25 U.S.C.A. / 2501-P.L. 100-297, 04/28/1988); and

**WHEREAS,** pursuant to P.L. 93-638 and P.L. 100-297, the White Mountain Apache Tribe and the Governing Board of Theodore Roosevelt School, which is funded by the BIA, agreed to perform the Federal Government’s Treaty obligation and Trust responsibility on the condition that the Federal Government remain ‘solely responsible’ for the operation and financial support of the resulting BIA/BIE-funded school; and

**WHEREAS,** as former Senator Thomas Daschle noted in the *Congressional Record*:

“The right to attend a good school should be the birthright of every child in America, but Native American children have a special claim on this right. Our Government has given its word, in treaties and laws, to provide education... and other basic necessities to Indian tribes and their members forever... Education and other Federal programs serving Native Americans are not handouts; they are treaty obligations. They are installment payments the United States Government owes for land the tribes surrendered reluctantly more than a century ago. America has never even come close to meeting those obligations.” (*Congressional Record*, 54626-04/29/2004); and

**WHEREAS,** it has been reported by the United States Commission on Civil Rights, in their report entitled, *A Quiet Crisis, Federal Funding and Unmet Needs in Indian Country* (2003) that :

“The Federal Government has sole responsibility for providing education to these [Native American] students...an obligation it is failing to meet. The federal obligation to Native Americans is a matter of both moral and legal imperative. For centuries, Native Americans ceded or were displaced from culturally and historically vital territories on the agreement that the Federal Government would, in perpetuity, assume trust responsibility for them. In exchange for land and compensation for forced removal from their original homelands, the government promised through laws, treaties, and ledges to support and protect Native Americans.

However, funding for programs associated with those promises has fallen short, and Native peoples continue to suffer the consequences of a discriminatory history. Small in numbers and relatively poor, Native Americans often have a difficult time ensuring fair and equal treatment on their own. Unfortunately, relying on the goodwill of the nation to honor its obligation to Native Americans has not resulted in desired outcomes. To many, the government’s promises to Native Americans go largely unfulfilled. Thus, the U.S. Commission on Civil Rights, through this report, gives voice to a quiet crisis.”; and

**WHEREAS,** the chronic under-funding of BIA education renders it difficult, if not impossible, for contract and grant schools, such as Theodore Roosevelt School, to survive and succeed, and appears to be an intentional destruction of these schools and thereby a termination of the Federal Government’s Trust responsibility.

**WHEREAS,** as noted in the aforementioned report produced by the United States Commission on Civil Rights, “Some observers have labeled the economic condition in Indian Country as ‘termination by funding cuts.’ ”; and

**WHEREAS,** the Federal Government has grossly under-funded the following costs for BIA/BIE-funded contract and grant schools:

- Administrative Cost Grants
- Operations Funding
- Transportation
- Construction funds

**WHEREAS,** furthermore, the OMB recently attempted to drastically reduce actual student funding (ISEP); and

**WHEREAS,** the administrative costs associated with operating BIA/BIE-funded contract and grant schools are to be funded to those schools pursuant to 25 U.S.C. § 2008 *et seq.*, and include such items as executive administration, board and corporate leadership, school program planning, development and management of fiscal policies, auditing, development and management of property, costs of necessary insurance, legal services, and safety/security contracts; and

**WHEREAS,** such administrative costs are substantial and essential to the successful operation of a school, yet it is difficult, if not unreasonable, to consider operating a school without planning for and providing funding necessary to fulfill the administrative needs of an educational program; and

**WHEREAS,** in 1994, Congress artificially capped the amount of money that would be expended for administrative cost grants for all BIA/BIE-funded schools, which resulted in only 65% of administrative costs of contract and grant schools, such as Theodore Roosevelt, getting federal funding; and

**WHEREAS,** as more BIA/BIE operated schools transition to BIA-BIE funded schools, the percentage of administrative cost paid to each school is further reduced, resulting in each school's share getting further reduced since there is no provision for additional funding to counter the increased number of schools sharing the administrative grant; and

**WHEREAS,** the 2007 National Indian School Board Association (NISBA) Annual Conference in Denver has advised that Operations and Maintenance ("O&M") funds were similarly set substantially below the current and projected level of need, such that only \$56 million of the \$99 million needed for O&M by tribal contract and grant schools would be allocated; and

**WHEREAS,** the failure to fully fund O&M conflicts with the 'No Child Left Behind' Act; and

**WHEREAS,** the current condition of many contract and grant school buildings is deplorable, such that school is being conducted in facilities built 50 to 75 years ago, which are out of date, crumbling, inadequate and often unsafe, conditions that would shock most American citizens (see *Congressional Record*, page 54626-04/29/2004); and

**WHEREAS,** the current physical condition of many contract and grant schools makes it very difficult to attract students, and this has resulted in declining enrollment and the closure of schools, which will be compounded by the advent of withholding funds such that new school construction and repairs may doom existing contract and grant schools serving the unstated policy of the Federal Government to close down these schools, and, de facto, terminate the government's Trust obligation to educate Native American children; and

**WHEREAS,** the Tribal Council finds that the United States Government has failed its trust obligation to educate Native American children through its failure to provide appropriate funding to contract and grant schools, such as Theodore Roosevelt, and appears to an intentional policy to literally force the closure of these schools and thereby extinguish the Trust obligation; and

**WHEREAS,** the Tribal Council further finds that the U.S. Congress should

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the United States Congress is requested to undertake the following in order to fulfill the trust obligation of the federal government to provide education to enrolled children of the Tribe:

1. An appropriation should be made to the U.S. Department of Interior for the purpose of fully funding the administrative, transportation and O&M costs of tribal contract and grant schools, including Theodore Roosevelt School.
2. In addition, the U.S. Department of Interior should fully fund the construction, renovation, and repair costs of tribal contract and grant schools, including Theodore Roosevelt School.

3. Similarly, U.S. Department of Interior should increase ISEP funding for tribal contract and grants schools in Arizona, including Theodore Roosevelt School, in an amount to the state's 'average received per pupil.'
2. Nothing in this resolution shall be implied or construed to be a waiver of any Treaty or Trust right of the White Mountain Apache Tribe or Trust obligation of the United States Government.
3. Nothing herein shall be implied or construed to be a waiver of the White Mountain Apache Tribe's sovereignty immunity under law.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice Chairwoman, is hereby authorized to execute any and all document necessary to effectuate the intent of this Resolution.

The foregoing resolution was on April 9, 2008, duly adopted by a vote of EIGHT for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (c), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

  
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Chairman of the Tribal Council

  
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Secretary of the Tribal Council