

# Monthly President's Report



Dear AFN Co-Chairs, Board Members  
& Membership,

Happy Holidays from AFN. We wish you health and happiness in 2013, and we look forward to working with you from our villages to our nation's capital.

This holiday season we are reminded just how precious each day with our friends and family is.

Flags across the nation fly at half mast, unifying the nation in our collective remembrance of a great man. On Monday we lost an incredible friend as Senator Daniel Inouye left this life. We join his family in mourning the loss of this true American hero, while also celebrating a life well lived and well shared.

Our nation loved a great man in Senator Daniel Inouye. We mourn the loss of an incredible leader, a steady voice for truth and justice. We mourn the loss of a warrior who fought tirelessly from the fields of battle to the halls of congress. We mourn the loss of a father, a husband and a friend.



December 2012

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## LOOKING AHEAD

### JANUARY '13 REPORT

Subsistence plan in detail, including new call for grassroots fundraising support.

### FEBRUARY '13 REPORT

AFN Board decisions on reorganizing and strengthening AFN.

# Monthly President's Report



We also celebrate the life and accomplishments of a man who dedicated himself to serving his community at home in Hawaii, across this great nation, and around the globe. Senator Inouye saw the world around him through clear eyes. Where he saw wrong, he worked to make right. Where he saw opportunities unrealized, he dedicated himself to supporting those in need.

With Senator Inouye's passing we say good-bye to a Great Generation of leaders. He was the last representative left in Congress who was an active participant in some of the century's greatest legislative achievements in civil and Native rights. Senator Inouye signed the Civil Right Act and was instrumental in supporting our efforts to make ANCSA and the Trans-Alaska pipeline a reality. We will honor his memory best by remaining steadfast, as he was, in our ongoing fight for justice, equality and opportunity.

Senator Inouye will always hold a special place in our hearts and our memories. He was an inspiration and a beloved champion for Native peoples from Hawaii, to Alaska and across Indian Country. We are all so grateful to have walked with him.

Mahalo Nui Loa, Dear Friend.



## Senator Ted Stevens

At'tat or At'tataq  
Yupik ~ Most respected Uncle

Qugruligauraq  
Inupiat ~ Whistling Swan  
"a person who refuses to give up"

Aan Kináa  
Tlingit ~ Celestial Brown Bear  
Mask That Went Up in Space

## Senator Daniel Inouye

Kel'loochaq or Kel'looch  
Yupik ~ One who holds the key

Anarraaq  
Inupiat ~ an ancient family name

Kéet Aanyádi  
Tlingit ~ Noble Killer Whale



# Monthly President's Report



## Staff Report

### UPDATED AFN BROCHURE

This month, AFN's staff updated the document we use most to introduce ourselves and our mission, here at home and across the nation in DC.

The new AFN brochure provides an updated snapshot of our history and mission, and introduces our membership and board. It also paints a picture of the AFN Convention and all that our annual event has to offer, and invites new partners to support our work.

We hope all of you will join us in using this great new resource as you build new relationships for our communities. It is attached as a PDF, available for download, and will be distributed in hard-copy as well.

### A Powerful Voice for Alaska

The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska. Its membership includes 178 villages (both federally-recognized tribes and village corporations), 13 regional Native corporations and 12 regional nonprofit and tribal consortiums that contract and run federal and state programs. AFN is governed by a 37-member Board, which is elected by its membership at an annual convention held each October. AFN's primary mission is to enhance and promote the cultural, economic and political voice of the entire Alaska Native community.

### AFN's History

The Alaska Federation of Natives was formed in October 1966, when more than 400 Alaska Natives representing 17 Native organizations gathered for a three-day conference to address Alaska Native aboriginal land rights. From 1966 to 1971, AFN worked primarily to achieve passage of a just and fair land settlement. On December 18, 1971 the Alaska Native Claims Settlement Act (ANCSA) was signed into law.

### AFN's Mission

Alaska Native people began as members of full sovereign nations and enjoy a unique political relationship with the federal government. They live and prosper as distinct ethnic and cultural groups and will continue to do so fully as members of the overall society. The mission of the Alaska Federation of Natives is to enhance and promote the cultural, economic and political voice of the Alaska Native Community.

Our goals are to:

- Represent the Alaska Native People, their governments and their traditions, with respect to federal, state and local laws and policies, and encourage preservation of Alaska Native cultures.
- Gain a better understanding of the economic needs of the Alaska Natives and encourage development to meet their needs.
- Retain and enhance lands owned by Alaska Natives and their traditions.
- Create and advocate for programs and systems that instill pride and respect in individual Native People.



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# Monthly President's Report



## Operations Report - Resolutions Follow-Up

### PRESIDENTIAL & CONGRESSIONAL TRANSITION DOCUMENT

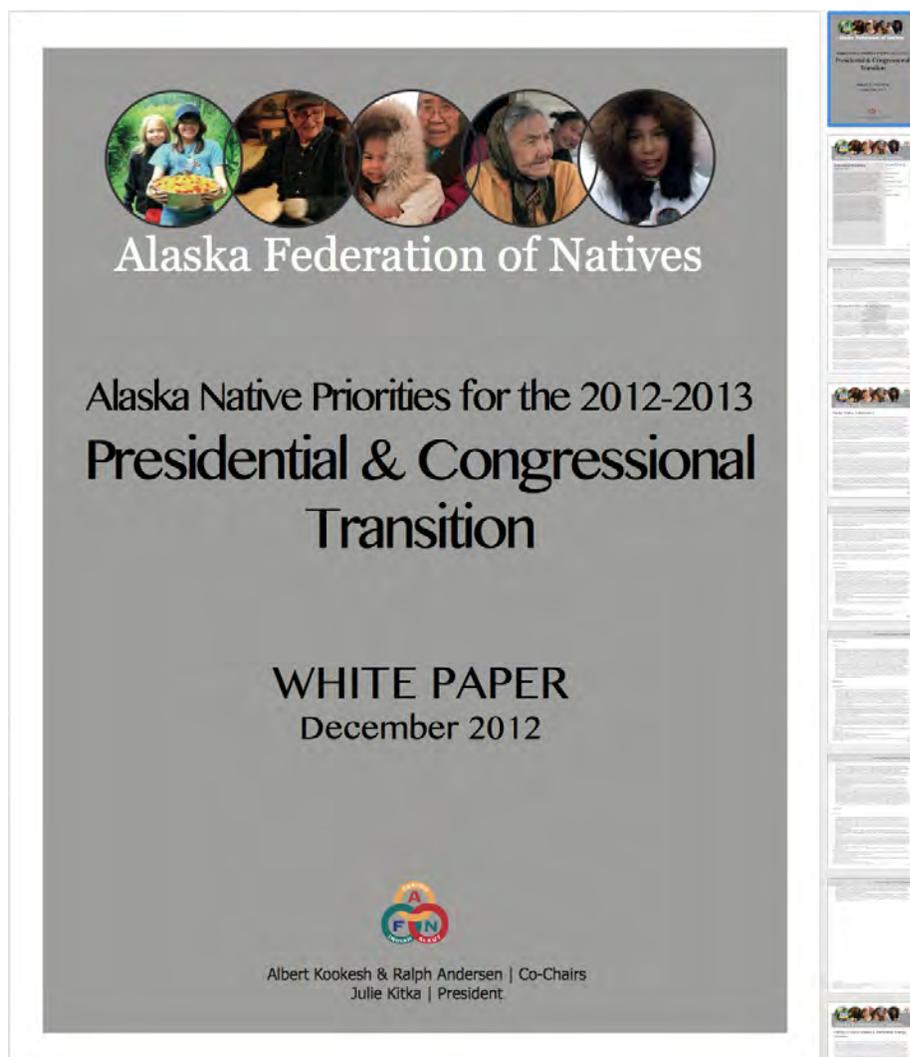
The AFN staff recently completed a white paper on our communities' priorities for the new congress and presidential administration titled Presidential & Congressional Transition.

This detailed document presents the Native communities' priorities for the first 100 days and first year of the new congress and administration, complete with supporting facts and specific asks. The document focuses on five key areas (informed by our membership's approved resolutions from the 2012 AFN Convention):

- Alaska Native Subsistence
- Energy Crisis in Rural Alaska & Alternative Energy Options
- Economic & Foreign Policy
- Education
- Health & Wellness

The white paper will be delivered to congressional and administration leaders via email, post, and in-person by AFN's Human Resources Committee.

We hope that you will use this white paper to support your own advocacy efforts and policy discussions. It is attached to this report in PDF format and available for download.



# Monthly President's Report



## Operations Report - Federal & Economic Policy

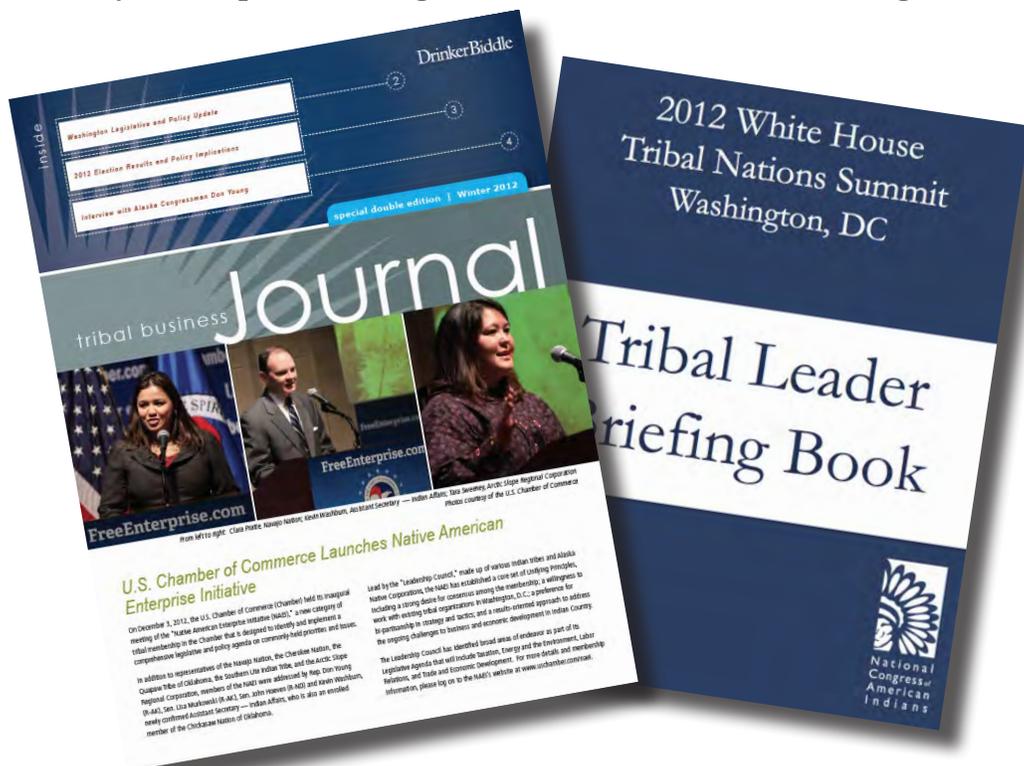
### ADVOCATING WITH A UNIFIED VOICE

We remain focused on Washington DC and the “fiscal cliff” negotiations taking place on the Hill.

On November 27, AFN joined tribal leaders across the nation in urging action to protect tribal communities and the federal trust responsibility as the nation faces critical choices about how to address the deficit while preventing another recession. This “Tribal Budget Letter” penned by NCAI and delivered to the Congressional leadership is attached in PDF format.

In preparation for the White House Tribal Nations Summit (which took place the first week of December), NCAI distributed a Tribal Leader Briefing Book. This comprehensive document outlines Indian Country’s policy priorities for the next administration and provides useful background on the summit and related activities that took place early next month. It accompanies this report in PDF format.

Also out this month, the Winter 2012 edition of the Tribal Business Journal (attached in PDF form with permission from the editor) features the new “Native American Enterprise Initiative (NAEI),” a new category of tribal membership in the US Chamber of Commerce that is designed to identify and implement a comprehensive legislative and policy agenda on commonly-held priorities and issues. Our own Tara Sweeney and Rep. Don Young were featured at the NAEI’s inaugural meeting (and in the TBI).



# Monthly President's Report



## Opportunities

### Department of Education Seeks Comments on Native American Career and Technical Education Program (Deadline: December 20)

The Department of Education is seeking input on proposed requirements, definitions, and selection criteria under the Native American Career and Technical Education Program (NACTEP). The Assistant Secretary for Vocational and Adult Education may use these requirements, definitions, and selection criteria for a competition in fiscal year (FY) 2013 and possibly in later years.

Visit <https://federalregister.gov/a/2012-28216> view the full Federal Register notice, including the proposed rules and submission guidelines.

## Planning

### STRATEGIC PLANNING

Please look for an update on AFN's strategic plan and enhanced 2013 communications initiatives in early 2013.

## Thank You & Happy Holidays

Best wishes for a lovely holiday with your friends and family. We look forward to working with you in 2013.

Sincerely,

Julie Kitka  
President, Alaska Federation of Natives

Alaska Federation of Natives  
1577 C Street, Suite 300 | Anchorage, Alaska | 99501 | 907.274.3611 | [afninfo@nativefederation.org](mailto:afninfo@nativefederation.org)





TRADITION  
CULTURE  
INNOVATION  
HISTORY  
PROGRESS

Alaska Federation  
of Natives



# A Powerful Voice for Alaska

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## AFN's History

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- Arts & Crafts
- President's Awards

# AFN's Mission

Alaska Native people began as members of full sovereign nations and continue to enjoy a unique political relationship with the federal government. We will survive and prosper as distinct ethnic and cultural groups and will participate fully as members of the overall society. The mission of the Alaska Federation of Natives is to enhance and promote the cultural, economic and political voices of the Alaska Native Community.

AFN's major goals are to:

- Advocate for Alaska Native People, their governments and their organizations, with respect to federal, state and local laws and policies.
- Foster and encourage preservation of Alaska Native cultures.
- Promote understanding of the economic needs of the Alaska Natives and encourage development to meet their needs.
- Protect, retain and enhance lands owned by Alaska Natives and their organizations.
- Promote and advocate for programs and systems that instill pride and confidence in individual Native People.



# AFN Board of Directors

NATIVE LEADERSHIP FROM ACROSS ALASKA

AFN is governed by a 37-member board of directors that includes representation from 13 Regional ANCSA corporations, 12 regional nonprofit tribal associations and all of AFN's village members.



Albert Kookesh, Co-Chair



Ralph Andersen, Co-Chair

Tara Sweeney, Secretary  
*Arctic Slope Regional Corporation*

Gail Schubert, Treasurer  
*Bering Straits Native Corporation*

Michelle Anderson  
*AHTNA, Inc.*

Thomas Mack  
*The Aleut Corporation*

Joseph Chythlook  
*Bristol Bay Native Corporation*

Thom Leonard  
*Calista Corporation*

Sheri Buretta  
*Chugach Alaska Corporation*

Gregory Razo  
*Cook Inlet Region, Inc.*

Georgianna Lincoln  
*Doyon, Limited*

Will Anderson  
*Koniag, Inc.*

Marie Greene  
*NANA*

# AFN Board of Directors

Rosita Worl  
*Sealaska Corporation*

Dimitri Philemonof  
*Aleutian Pribilof Islands Association*

Herman Kignak, Sr.  
*Arctic Slope Native Association*

Myron Naneng  
*Association of Village Council Presidents*

Fred T. Angasan  
*Bristol Bay Native Association*

Ed Thomas  
*Central Council of Tlingit  
& Haida Indian Tribes of Alaska*

Francis Norman  
*Chugachmiut, Inc*

Lisa Yoshimoto  
*Copper River Native Association*

Melanie Bahnke  
*Kawerak, Inc.*

Andrew Teuber  
*Kodiak Area Native Association*

Ian Erlich  
*Maniilaq Native Association*

Jerry Isaac  
*Tanana Chiefs Conference*

Brenda Rebne  
*AHTNA Villages*

Fenton Rexford  
*Arctic Slope Villages*

Jason Bourdukofsky  
*Aleut Villages*

Thomas Tilden  
*Bristol Bay Villages*

Steve Ivanoff  
*Bering Straits Villages*

Michaelene Stephan  
*Cook Inlet Villages*

Nancy Barnes  
*Chugach Villages*

Orville Huntington  
*Interior Villages*

Ana Hoffman  
*Y-K Delta Villages*

Lawrence Westlake, Sr.  
*Northwest Villages*

Denise May  
*Kodiak Villages*

Robert A. Sanderson, Jr.  
*Southeast Villages*

# Membership

## COPPER RIVER REGION

Ahtna, Inc.  
Copper River Native Association

### VILLAGES

Cantwell  
Chistochina  
Chitina  
Copper Center  
Gakona  
Gulkana  
Lake Louise  
Lower Tonsina  
Mentasta  
Nebesna  
Slana  
Tazlina  
Twin Lakes

## ALEUT REGION

The Aleut Corporation  
Aleutian/Pribilof Islands Association

### VILLAGES

Akutan  
Belkofski  
King Cove  
Nikolski  
Sand Point  
St. George  
St. Paul  
Unalaska



# Membership

## ARCTIC SLOPE REGION

Arctic Slope Regional Corporation  
Arctic Slope Native Association

### VILLAGES

Anaktuvuk Pass  
Atqasuk  
Barrow  
Kaktovik  
Nuiqsut  
Point Hope  
Point Lay  
Wainwright

## BERING STRAITS REGION

Bering Straits Native Corporation  
Kawerak, Inc.

### VILLAGES

Brevig Mission  
Elim  
Golovin  
Gambell  
King Island  
Koyuk  
Nome  
Shaktoolik  
Shishmaref  
Solomon  
St. Michael  
Stebbins  
Unalakleet  
Wales  
White Mountain



# Membership

## BRISTOL BAY REGION

Bristol Bay Native Corporation

Bristol Bay Native Association

### VILLAGES

Aleknagik

Chignik

Chignik Lagoon

Chignik Lake

Clark's Point

Dillingham

Egegik

Ekuk

Ekwok

Igiugig

Iliamna

Ivanof Bay

King Salmon

Kokhanok

Koliganek

Levelock

Manokotak

Naknek

New Stuyahok

Newhalen

Nondalton

Pedro Bay

Perryville

Pilot Point

Port Heiden

Portage Creek

South Naknek

Togiak

Twin Hills

Ugashik



# Membership

YUKON-KUSKOKWIM REGION

Calista Corporation  
Association of Village Council Presidents

## VILLAGES

Akiachack  
Akiak  
Alakanuk  
Andreafski  
Aniak  
Atmauthluak  
Bethel  
Chaloonavik  
Chefornak  
Chevak  
Crooked Creek  
Eek  
Emmonak  
Goodnews  
Hamilton  
Hooper Bay  
Kasigluk  
Kipnuk  
Kongiganak  
Kwethluk  
Marshall  
Mekoryuk  
Mountain Village  
Napaimute  
Napakiak

Napaskiak  
Newtok  
Nightmute  
Nunapitchuk  
Oscarville  
Paimute  
Pilot Station  
Pitka's Point  
Quinhagak  
Scammon Bay  
Sheldon's Point  
Sleetmute  
St. Mary's  
Stony River  
Toksook Bay  
Tuntutuliak  
Tununak  
Upper Kalskag



# Membership

## CHUGACH REGION

Chugach Alaska Corporation  
Chugachmiut, Inc.

### VILLAGES

Chenega  
English Bay  
Eyak  
Port Graham  
Tatitlek

## COOK INLET REGION

Cook Inlet Region, Inc.

### VILLAGES

Alexander Creek  
Eklutna  
Kenai  
Knik  
Ninilchik  
Salamatoff  
Tyonek



# Membership

## INTERIOR REGION

Doyon, Limited  
Tanana Chiefs Conference

### VILLAGES

Allakaket  
Beaver  
Anvik  
Arctic Village  
Chalkyitsik  
Circle  
Dot Lake  
Eagle  
Evansville  
Fort Yukon  
Galena  
Grayling  
Holy Cross  
Hughes  
Huslia  
Kaltag  
Koyukuk  
Manley Hot Springs  
McGrath  
Minto  
Nenana  
Nikolai  
Northway

Nulato  
Ruby  
Shageluk  
Stevens Village  
Takotna  
Tanacross  
Tanana  
Telida  
Tetlin  
Tok  
Venetie



# Membership

## NORTHWEST REGION

NANA Regional Corporation  
Maniilaq Association

### VILLAGES

Ambler  
Buckland  
Deering  
Kiana  
Kivalina  
Kobuk  
Kotzebue  
Noatak  
Noorvik  
Selawik  
Shungnak

## KODIAK REGION

Koniag, Inc.  
Kodiak Area Native Association

### VILLAGES

Afognak  
Akhiok  
Ayakulik  
Karluk  
Kodiak  
Larsen Bay  
Old Harbor  
Ouzinkie  
Port Lions  
Woody Island



# Membership

## SOUTHEAST REGION

Sealaska Corporation

Central Council of Tlingit & Haida Indian Tribes of Alaska

### VILLAGES

Angoon

Craig

Douglas

Haines

Hoonah

Hydaburg

Juneau

Kake

Kasaan

Ketchikan

Klawock

Klukwan

Metlakatla

Pelican

Petersburg

Saxman

Sitka

Skagway

Tenakee Springs

Wrangell

Yakutat



# Annual AFN Convention

THE NATION'S LARGEST NATIVE GATHERING

The AFN Convention is the largest representative annual gathering in the United States of any Native peoples. Delegates are elected on a population formula of one representative per twenty-five Native residents in the area and delegate participation rates at the annual convention typically exceed 95 percent.

Each year, the AFN Convention draws between 4,000–5,000 attendees. The proceedings are broadcast live via television, radio and webcast reaching a diverse audience from Barrow to Ketchikan, from the Aleutian Chain to the Canadian border. During the convention, the entire state of Alaska is blanketed with discussion on current events and issues. International observers are present at most meetings, both exchanging information and learning from the Alaska Native experience.



# Annual AFN Convention

## ELDERS & YOUTH CONFERENCE

The Elders and Youth Conference celebrates the Alaska Native intellect by encouraging young people and elders to collectively pursue the great task of maintaining traditional Native values and practices, while thriving in the modern world. For nearly three decades, the Elders and Youth Conference has celebrated the old while embracing the new.

The Elders and Youth Conference combines the best of both worlds -- our young people who are the next wave of leaders and our elders, the culture bearers and vital connection to our heritage. Participation at the conference has expanded to over 1,000 regular attendees, both urban and rural, representing the five main Alaska Native cultural groups. The event brings together an eclectic mix of youthful energy and time-tested wisdom, as well as indigenous leaders from statewide, national and international arenas.



# Annual AFN Convention

## QUYANA ALASKA

Our traditional dances remain the lifeblood of our culture and our communities: they sustain us and connect us with our rich cultural history. Passed from generation to generation, our dances ensure that the many distinct Native cultures across Alaska remain connected to their origins. For over 20 years, Alaska Natives have come together in dance to celebrate Quyana Alaska during AFN's Annual Convention.

First introduced at the 1982 Convention, Quyana Alaska was designed to restore our traditional dances and ensure that they were passed on to the future generations. To date, over 200 different dance groups have performed at Native gatherings across the state. The cultural revival has exploded across rural Alaska, and Quyana Alaska is now a treasured highlight of each and every Convention.



# Annual AFN Convention

## ALASKA NATIVE CUSTOMARY ART SHOW

For over 30 years, AFN has brought together Alaska Native artisans from all regions of the state as well as our Lower 48 American Indian friends to showcase and sell their artwork.

The Alaska Native Customary Art Show is renowned as one of the best places to find Alaska Native and American Indian artwork from cultures that are vital and rich with history, skill, tradition, adaptation, and creativity. This traditional Fair is a way of promoting the artists and celebrating the uniqueness of art and heritage.



# Annual AFN Convention

## PRESIDENT'S AWARDS

Each year, AFN recognizes individuals and groups who embody the best of Alaska Native culture with President's Awards in a broad range of categories. Selection criteria vary depending on the award, always with an emphasis on honoring individuals and efforts that have had a statewide or community-wide impact.

AFN's President's Awards are given in the following categories:

Culture Bearer | Elder of the Year  
Della Keats "Healing Hands"  
Eileen Panigeo MacLean Education  
Hunter-Fisher | Health  
Parents of the Year  
Roger Lang Youth Leadership  
Public Service | Small Business  
Glenn Godfrey Law Enforcement  
Lu Young Youth Leadership  
Dr. Walter Soboleff "Warrior of Light" | Hannah Paul Solomon  
"Woman of Courage"



# Become an AFN Partner

## SUPPORT AFN'S ONGOING WORK

AFN's projects and initiatives are collaborative efforts that succeed because of our partners across the great state of Alaska and beyond. We welcome your involvement and encourage you to become part of our ongoing success! AFN could never accomplish all we do each year without you.

### Investing Partners

Investing partners add value to AFN's initiatives by consistently contributing to our programs, year after year. Our Investing Partners help underwrite AFN's signature initiatives, from our Annual Convention to the Alaska Marketplace Competition as well as the conferences and events we host throughout each year. We are thrilled to acknowledge their partnership with prominent mentions on the AFN website and at all our major events.

### Program Partners

Program-specific contributions enable partners to underwrite the event or project of their choosing. Contributions at any level make a lasting impact on AFN's work, and leave an enduring legacy of support.

Please contact AFN for a complete list of available partner benefits, including brand and logo visibility, as well as opportunities for booth and ad space at select AFN events.

If you or your organization, business, foundation, agency or corporation is ready to pledge your support for AFN's initiatives, please email us at [afninfo@nativefederation.org](mailto:afninfo@nativefederation.org) or call 907-274-3611 today.

Quyana Gunalcheesh Jín da aadí Akumleq Qağaasakung Ilaagudax



TRADITION  
HISTORY  
CULTURE  
INNOVATION  
PROGRESS

Alaska Federation of Natives  
1577 C Street, Suite 300 | Anchorage, AK 99501  
[www.nativefederation.org](http://www.nativefederation.org) | [facebook/nativefederation](https://facebook.com/nativefederation)





# Alaska Federation of Natives

## Alaska Native Priorities for the 2012-2013 Presidential & Congressional Transition

**WHITE PAPER**  
December 2012



Albert Kookesh & Ralph Andersen | Co-Chairs  
Julie Kitka | President



# Alaska Federation of Natives

## Transition Priorities

### ABOUT AFN

The Alaska Federation of Natives (AFN) was formed in 1966 to advocate for a fair and just land claims settlement. It is the largest statewide Alaska Native organization. The mission of AFN is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community. Our membership includes 178 villages (both federally recognized tribes and village corporations), 12 regional Native corporations, and 11 regional nonprofit and tribal consortiums that contract and run federal and state programs. AFN is governed by a 37-member board.

Each year, AFN's members convene the nation's largest representative annual gathering of Native peoples. Delegates are elected on a population formula of one representative per twenty-five Native residents and delegate participation rates at the annual convention typically exceed 95 percent. The Convention draws between 4,000–5,000 attendees every year. Proceedings are broadcast live via television, radio and webcast reaching a diverse audience of 40,000+ viewers from 78 countries. During the convention, the entire state of Alaska is blanketed with discussions of current events and issues. International observers are present at most meetings, both exchanging information and learning from the Alaska Native experience.

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## ALASKA - SIZE MATTERS

Alaska's geography is unlike anything, anywhere else in the United States. At 2.5 times the size of Texas, Alaska is a vast land, with a small population. Less than 700,000 people live in the over 200 rural villages, regional centers and urban areas. Alaska Natives make up about 20% of the population in Alaska and are very active in their communities and state. Alaska remains underdeveloped, but its people are actively seeking modern rural infrastructure, sustainable economies, affordable energy, access to quality health care and education. The great distances in Alaska from one community to another, and from the state to the rest of the United States, present unique and varied challenges. Transportation of people, goods and services is expensive; and logistics are complex due to seasonal extreme cold weather and mega storms.

In some villages in western Alaska, the impact of the cost of fuel on transportation costs adds as much as 40% to the overall cost of building materials. It can take as long as 6 hours to fly via air carrier from the northern part of the state to the southern. From subsistence living -- hunting and fishing to feed families -- to education, energy and distinct ethnic and cultures, Alaska's size and diversity make our peoples' needs, and the related policy solutions, very different than the rest of the United States.

## HOMELAND SECURITY FOR ALASKA NATIVES

It is critical that the US Congress and the State of Alaska ramp up investment in rural Alaska. It is the homeland of Alaska's Native people, on the frontline of a massive buildup on the northern shores, and the US's only footprint in the Arctic. Offshore exploration, a "race for resources," and climate change will greatly impact the rural communities of Alaska, and all Alaskans. There are critical rural infrastructure and program needs, which need attention now. To survive, traditional Alaska Native communities need both public and private investments to shore up the economic foundations of their communities. The future of rural Alaska depends upon this.

Alaska's traditional Native villages represent an important part of Alaska's cultural heritage, yet they are disproportionately impacted by the rapid changes taking place in the Arctic -- cultural, economic, and environmental. Alaska Natives are more likely to experience the effects of climate change due to the geographic area in which they live, and their very direct connection to their surrounding environment. These changes threaten not only their health and food supply, but also to their traditional way of life.

The serious problems that face the Native people of Alaska, include high energy costs, a stalled or non-existent economy, lack of training opportunities, and lack of access to quality and effective education, all of which make it difficult for Alaska Natives to remain in their villages. High energy costs for home heating and electricity, and a lack of infrastructure, severely limit rural residents' cash income. Hunting and fishing opportunities are disappearing due to intense competition from non-Native sport and commercial operations. Rising health costs due to high rates of diabetes and substance abuse among Native populations continue to challenge our cultural and economic survival. Educational opportunities drastically differ between schools in urban areas of Alaska and rural Alaska, where the majority of Alaska Natives live -- a problem that is exacerbated by the closure of schools when communities' populations become too small.

We must ensure that our grandchildren enjoy the same benefits that we do from the existence of vibrant traditional Alaska Native communities. We propose the following concrete steps the Administration and Congress can take to shore up the economic foundations of these communities and contribute to Alaska Natives' overall well being and security.



# Alaska Federation of Natives

## Alaska Native Subsistence

Protection of Native hunting, fishing and gathering rights is a part of federal law throughout the United States. Nowhere is it more critical than in Alaska. Subsistence is not a relic from the past, rather it is the foundation of Alaska Native society and culture. A vast majority of Alaska's 120,000 Native people (nearly 20% of the population of Alaska) still participate in hunting, fishing and gathering for food during the year. Subsistence resources remain central to the nutrition, economies, and traditions of Alaska's Native villages. Alaska Natives' freedom to pursue their subsistence activities is closely linked to their food security. The average harvest of subsistence resources in pounds per person in rural Alaska is estimated at 544 pounds, equivalent to 50% of the average daily caloric requirement. The economic significance of subsistence in rural Alaska is best appreciated in light of one study that suggested that replacing subsistence foods would range between \$98 and \$164 million or \$2,000-\$3000 per person.<sup>1</sup>

Unfortunately, the legal framework governing subsistence in Alaska significantly hampers the ability of Alaska Natives to access their traditional foods. Native leaders sought explicit protection of their hunting and fishing rights in the settlement of their aboriginal land claims, but instead the Alaska Native Claims Settlement Act (ANCSA) extinguished those rights. Congress explained that it expected the State of Alaska and the Secretary of the Interior "to take any action necessary to protect the subsistence needs of Alaska Natives."

Neither the Secretary nor the State fulfilled that expectation. At the urging of Alaska Natives, Congress enacted Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. ANILCA provided for state implementation of a federal priority for subsistence users on all lands and waters in Alaska through a state law implementing the priority. Again, Native leaders sought explicit protection for "Native" hunting and fishing rights, but the State of Alaska objected. Ultimately, the law was crafted to provide a subsistence priority for "rural residents" with the expectation that the State would enact laws that conformed to the federal requirements. The State reluctantly did so in 1982, but that system operated for less than a decade before the Alaska Supreme Court ruled that the State Constitution precluded Alaska from implementing a "rural" priority.

Today, after more than 20 years of dual federal and state management, it has become clear that ANILCA does not provide long-term protection for the Native subsistence way of life. Instead, other users and ineffective management regimes have marginalized subsistence harvests. Alaska Natives

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<sup>1</sup> Scott Goldsmith, *The Remote Rural Economy of Alaska* at 37-38, published by University of Alaska Anchorage, Institute of Social and Economic Research (April 12, 2007); Alaska Department of Fish and Game, Division of Subsistence, *Subsistence in Alaska: A Year 2000 Update*.

have been made criminals for feeding their families and communities, and penalized for practicing their ancient traditions. The fact that Alaska Natives were given only a very limited role in the management of their hunting and fishing rights through ANILCA, and the fact that the federal priority does not extend to state and private lands, critically undermines all attempts to protect customary and traditional uses, practices and needs.

Rather than simply defending a broken system that no longer serves its intended purpose, it is time to consider options that reach back to Congress's original expectation that Alaska Native hunting, fishing and gathering rights be protected. Congress has the authority to enact legislation that ensures a "Native" or "tribal" subsistence preference on all lands in Alaska, and to mandate a co-management role for Alaska Natives. It has done so in the enactment of numerous other federal laws that provide explicit protection for Native hunting and fishing rights in Alaska.

Delegates to the 2012 annual convention of the Alaska Federation of Natives pledged to continue to strive for recognition and protection of their basic human rights to food security and self-determination, and to maintain their own unique cultures – rights that are recognized and codified in International Law and recognized by all enlightened, civilized societies.

We urge both the Administration and Congress to provide full and lasting protections for the Alaska Native hunting, fishing, and gathering way of life and a co-equal role in managing fish, wildlife, and other renewable resources that we rely upon for our economic and cultural existence.

## First 100 Days

### Executive Branch

- Appoint an Alaska Native to serve in the Office of the Secretary of the Interior in Washington, DC. Special expertise and knowledge of Alaska would aid the Secretary in addressing many of the issues facing Alaska Natives, including subsistence.
- Convene a high-level interagency meeting with key White House officials, including the Domestic Policy Council and department officials with jurisdiction over subsistence uses. Subsistence management and the legal rights of Alaska Natives cut across a number of departments within the Administration, including Interior, Agriculture, Justice, State, and Commerce (NOAA and NMFS). Often measures taken by one agency have a dramatic impact on another agency's ability to provide for subsistence uses of the same resources. If meaningful protections are to be provided for subsistence hunting and fishing in Alaska, there must be an ongoing dialogue between Alaska Native leaders and the agencies with jurisdiction over the various aspects of the Alaska Native subsistence way of life.<sup>2</sup>
- Develop a more complete and transparent federal subsistence budget for managing subsistence on federal lands.<sup>3</sup>
- Commit to entering into co-management agreements with tribal governments and Native organizations for significant aspects of the federal subsistence management system.<sup>4</sup>

<sup>2</sup> AFN Convention Resolutions 12-18, 12-20, and 12-11.

<sup>3</sup> NCAI/Tribal Conference Recommendation; also follow-up from the Secretarial Review of the Subsistence management system.

<sup>4</sup> AFN Convention Approved Subsistence Action Plan; NCAI/AFN Tribal Conference Recommendation, AFN Convention Resolution 12-18.

## First 100 Days

### Congress

- Work with the Alaska Native Leadership to schedule field hearings in Alaska and Congressional Oversight hearing(s) in Washington, DC before the appropriate committees with jurisdiction on the status of Alaska Native rights to food security, customary and traditional hunting and fishing rights, and the need for self-determination to protect and maintain these rights and way of life.<sup>5</sup>
- Work with AFN to schedule a series of briefings and brown bag luncheons for Congressional leaders and staff of the committees with jurisdiction over subsistence. Many in Congress are not familiar with the legal framework in Alaska governing subsistence, the history of the subsistence issue, the shortcoming of the current laws, the role subsistence plays in the economics of food security for village Alaska, and the critical need for administrative and legislative changes.<sup>6</sup>
- Pass legislation that amends the Federal Duck Stamp Act to allow the Secretary of the Interior to waive the requirement that all hunters purchase and carry Duck Stamps for Alaska Native hunters who engage in the customary and traditional subsistence harvest of migratory birds in Alaska. Such a provision is currently included in the Sportsmen's Act of 2012, S.3525, a package of 17 bills that has broad bipartisan support.<sup>7</sup>

## First Year

### Executive Branch

- Issue an Executive Order to advise all federal agencies and the Federal Subsistence Board that Title VIII of ANILCA is "Indian Legislation," enacted under the plenary authority of Congress over Indian Affairs, and mandate an ongoing role for Alaska Natives in the federal management program, including tribal compacting and contracting of significant aspects of the federal management program. Section 809 of ANILCA, which allows for contracting co-management with Alaska Native tribes and organizations, is underutilized. The President should direct the Office of Subsistence Management to implement the subsistence management program in accordance with the Executive Order.<sup>8</sup>
- Work with the Alaska Native leadership to introduce legislation that repeals the extinguishment of aboriginal hunting and fishing rights (4b of ANCSA) and replaces it with improved protections for Native hunting and fishing rights, including an Alaska Native or tribal subsistence priority on all lands and waters in Alaska and a co-equal role in managing fish, wildlife and other renewable resources used for subsistence.<sup>9</sup>
- As an interim measure, review the Department of the Interior's policy of limiting federally reserved waters to lands running through or abutting federal lands created by Title VIII of ANILCA, and initiate a new rulemaking that would apply the federal reserved water rights doctrine to waters that run upstream and downstream from ANILCA's conservation system units and to Native

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5 AFN Convention Approved Subsistence Action Plan; NCAI/AFN Tribal Conference Recommendation, AFN Convention Resolution 12-18

6 AFN Convention Resolution 12-18

7 AFN Convention Approved Subsistence Action Plan; AFN Convention Resolution 12-18

8 AFN Convention Approved Subsistence Action Plan

9 AFN Convention Approved Subsistence Action Plan; NCAI/AFN Tribal Conference Recommendation, AFN Convention Resolution 12-18

allotments.<sup>10</sup>

- Enter into co-management agreements with Alaska’s tribal governments and corporations and increase the Department’s contracting with Alaska Native tribes and organizations under Section 809 of ANILCA for significant aspects of the federal management program in Alaska.<sup>11</sup>
- Expedite the implementation of the changes to the Federal Management Program promised by the Secretary in his 2010 Review, and make a formal report to Alaska’s Tribes and Corporations concerning the steps taken to implement those recommendations.
- Amend the federal regulatory definition of “rural” as it applies to ANILCA’s priority and the criteria for assessing rural characteristics during the decennial review of rural status so that Native villages such as Saxman do not arbitrarily lose their right to federal protections for their subsistence way of life.<sup>12</sup>
- Direct a comprehensive review of all subsistence regulations to ensure that no unnecessary restrictions have been imposed upon subsistence users unless required under Section 804 of ANILCA to protect the viability of the species and/or to continue to provide for subsistence uses.<sup>13</sup>
- Work with Alaska Native leadership to change the regulatory definition of “significantly altered” in the definition of “traditional handicrafts” under the Marine Mammal Protection Act. The lack of clarity regarding the “significantly altered” requirement limits the permissible harvest of sea otters for subsistence purposes since it is unclear how the pelts can be used. This comes at a time when there are growing concerns about the growth of the sea otter population in Southeast Alaska, and the corresponding decline in commercially important shellfish, including Dungeness crab.<sup>14</sup>

## First Year

### Congress

- Introduce and pass legislation that will restore and protect Native hunting and fishing rights in Alaska, and provide a co-equal role in the management of subsistence for Alaska Natives.<sup>15</sup>
- Work with Alaska Native tribes and corporations on region-specific legislation that will ensure the opportunity for Native management of subsistence resources on Native owned lands, and unified management throughout tribal traditional hunting and fishing territory through co-management with Alaska Natives.<sup>16</sup>
- Amend the Magnuson-Stevens Fishery Conservation and Management Act to establish at least one voting seat for a tribal representative from Alaska on the North Pacific Fisheries Management Council.<sup>17</sup>
- Amend the Marine Mammal Protection Act to strengthen the co-management role of Alaska Native organizations engaged in co-management of marine mammals. A package of amendments were negotiated and agreed to by the Indigenous Peoples Council for Marine Mammals (IPCoMM), the Marine Mammal Council, the US Fish & Wildlife Service and the National Marine Fisheries Service.

10 AFN Convention Approved Subsistence Action Plan

11 AFN Convention Approved Subsistence Action Plan; NCAI/AFN Tribal Conference Recommendation, AFN Convention Resolution 12-18

12 AFN Convention Approved Subsistence Action Plan and on-going AFN priority from prior Convention Resolutions

13 On-going AFN priority from prior Convention Resolutions

14 AFN Convention Resolution 12-10

15 AFN Convention Approved Subsistence Action Plan; NCAI/AFN Tribal Conference Recommendation, AFN Convention Resolutions 12-18 and 12-07

16 AFN Convention Approved Subsistence Action Plan

17 AFN Convention Approved Subsistence Action Plan, AFN Convention Resolution 12-20

The amendments would allow the agencies and Alaska Native Organizations to develop marine mammal conservation regimes collaboratively in order avert management crisis's that can arise under the current management system. <sup>18</sup>

- Appropriate amounts necessary for federal agencies to fulfill the mandates of Title VIII of ANILCA, the Migratory Bird Treaty Act, the Marine Mammal Protection Act and other laws that impact the ability of Alaska Natives to continue to harvest the resources of the land and sea that have sustained them for thousands of years. <sup>19</sup>

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<sup>18</sup> On-going AFN priority from prior Convention Resolutions

<sup>19</sup> AFN Convention Approved Subsistence Action Plan, AFN Convention Resolutions 12-17 and 12-19, and on-going AFN priority from prior Convention Resolutions



# Alaska Federation of Natives

## Energy Crisis in Alaska & Alternative Energy

Rural Alaska's villages are among the most economically depressed communities in the nation. They have the highest per capita fuel costs in the U.S. 176 of the largest communities in rural Alaska, with a combined population of 74,500 residents, will spend more than \$5 billion over the next 20 years for diesel fuel alone.<sup>20</sup> Most of Alaska's rural communities are not connected to a regional power grid, and are thus dependent on fossil fuels for heating of residential home and commercial properties, transportation, and electricity generation. In winter months, these costs are exacerbated by the cold harsh weather, causing residents to spend more than half their monthly income on energy/heating costs. It is not uncommon for entire communities to run out of fuel during the winter months.

At the same time, Alaska has a world-class range of renewable power resources, including hydro (run of the river, low impact and high head sources to traditional dams), massive amounts of wind power (including wind-hybrid systems), world-class tides, abundant geothermal resources, and great biomass opportunities. These vast energy resources are largely untapped. Many of our villages are actively working to develop these resources as well as energy efficiency projects, but these resources exist in a complex natural and socio-economic environment of tribes, non-profit organizations, non-governmental organizations, ANSCA Corporations, private sector organizations, and local/state/federal government agencies. Alaska's strategic location -- positioned between Europe, Asia and North America -- creates great opportunities to export these resources, build economies and expertise, and to test different alternative energy technologies through a range of demonstration projects.

Development of affordable energy is critical to the survival of our villages. The Alaska Federation of Natives has made it a priority to focus on energy initiatives and to make sure our villages are not excluded from any energy policy, program, or infrastructure development. We urge the Administration and Congress to take the following steps.

### First 100 Days

- Provide increased funds to the Low Income Home Energy Assistance Program (LIHEAP). Over the past decade, LIHEAP has transitioned from a regional program to a national program serving all 50 states. At peak funding in 2009, the program was national in scale but still only had enough resources to support roughly 1/4 of eligible households. With decreased funding over the past several years, states are forced to provide smaller grants to fewer households. Additional cuts will further stress the program. Funding at the \$5.1 billion level is recommended for the continued

<sup>20</sup> Bases on ISER Community Diesel Price Projections (medium price scenario), Energy Pathway database current fuel use 3% interest rate in 2007 dollars

success of this program.<sup>21</sup>

- Ensure the reauthorization of the Denali Commission. The Denali Commission is a federal, state and tribal partnership created by Congress to address the needs of Alaska's distressed communities. The commission works to enhance the economies of our rural communities by building and maintaining infrastructure projects in Alaska. The commission also works with the Alaska Energy Authority (AEA) on energy projects and grants in rural Alaska.<sup>22</sup>
- Support H.R. 3973, the "Native American Energy Act," to streamline duplicative government regulations and increase the opportunity for Indian Tribes and Alaska Native Corporations to develop energy resources on their own land to create jobs and increase American energy production.
- Support S. 1684, the "Indian Tribal Energy Development and Self Determination Act Amendments of 2011," which allows intertribal organizations to receive Department of Energy (DOE) Indian energy education planning and management assistance program grants to increase tribal capacity to manage energy development and efficiency programs. The Act also makes DOE energy development loan guarantees available to Tribal energy development organizations. The bill would also amend the Energy Policy and Conservation Act to provide home weatherization grants directly to Indian tribes if a tribe requests a direct grant, and the Secretary of Energy determines that the Indian beneficiaries would not be better served by providing the grant to their state.

## First Year

- Work to make available public lands for the development of renewable energy systems in rural Alaska, modernize current electrical grids to provide access to renewable resources, reduce power outages, and allow for greater efficiency with new "smart grid" technology.
- Support transmission projects to interconnect our rural Alaska Communities.
- Establish funding for an Essential Marine Transportation program at the national level, and give a priority to funding essential marine transportation facilities that will lower the transportation costs of fuel and materials and goods to rural Alaska Communities.<sup>23</sup>
- Encourage the exploration and development of private, state, and federal lands, onshore and offshore by providing incentives and revenue sharing for Alaska's coastal communities.
- Provide support to existing programs and agencies such as the Denali Commission, Alaska Energy Authority, and DOE Tribal Energy Program, and for the creation of other regional authorities, in order to provide outreach, investment, and technical assistance to rural communities and tribes for research and feasibility studies to understand their energy options, best practices, and strategies that will best serve each of Alaska's rural communities.
- Continue to provide federal wind tax credits to incentivize wind energy projects in Alaska and to help overcome the lack of economies of scale in rural Alaska.

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<sup>21</sup> AFN Convention Resolution 11-27

<sup>22</sup> AFN Convention Resolution 11-42 and reauthorization of the Denali Commission is a continued Energy, Economic, and Health/Welfare priority for AFN

<sup>23</sup> AFN Convention Resolution 12-33



# Alaska Federation of Natives

## Economic & Foreign Policy

There is a common misconception that because Alaska Native corporations are making progress and oil production takes place in-state, Alaska Natives are not affected by the recession and have little need for federal assistance. This could not be further from reality. Although nearly \$18.5 billion was either generated in or flowed into remote areas in 2006, only \$2.35 billion entered the local economy. The rest went directly to producer profits; purchases of labor, supplies, and services; and federal and state taxes and royalties. In many ways, we can describe rural Alaska as an “emerging economy” similar to other developing countries around the world. As an “emerging economy,” we experience more drastic impacts from recessions. The 2010 census estimates indicate that a poverty rate of 13.6% exists in rural Alaska (some places reaching a rate as high as 30%), compared to a 9.8% level in urban areas of the state.<sup>24</sup> Effective economic stimulus programs must be tailored to the unique circumstances in Alaska. We need U.S. financial and tax incentives to increase both local and expanded statewide and national investment in our villages, which can lead to stronger and more responsive economic performance levels and badly needed jobs.

### First 100 Days

- Protect vital funding for the Bureau of Indian Affairs, Department of Interior programs and other programs that benefit Alaska Natives and Native Americans from sequester, rescission, and other funding reductions.<sup>25</sup>
- In terms of Communications, ensure that the FCC not only listens to, but collectively works with all of the Alaska stakeholders, including AFN, tribal organizations, village and regional corporations, local borough governments, the Alaska Congressional Delegation, and all of Alaska’s carriers, to ensure the creation of a robust broadband network in Alaska. Also, ensure that reforms to the Universal Service Fund do not create a situation where large areas of Alaska are left unserved or underserved by broadband.<sup>26</sup>

### First Year -- Define Alaska’s strategic role as part of both the Arctic and Pacific in American foreign and economic policy to include:

- Participation in the Arctic Council. (Chairmanship – identify focus for 2015-2017 term & Implementation of Search and Rescue Agreement – increase capabilities of coastal communities so they can respond to calls within the US region.)

<sup>24</sup> <http://quickfacts.census.gov/qfd/states/02/02270.html>

<sup>25</sup> AFN Convention Resolution 12-13, 12-14, 12-15, and 12-27

<sup>26</sup> AFN Convention Resolution 12-04

- Increased resources to regional hubs and coastal communities to meet the challenges presented by increased activity in the Arctic. Regional hubs are becoming increasingly important in terms of providing critical support services; including search and rescue, emergency health care, communications, and oil spill response. Increased funding for marine facilities such as docks and transportation services is necessary for delivery of such services.<sup>27</sup>
- Ratification of the Law of the Sea – the United States is the only Arctic nation that has not adopted the law of the sea.<sup>28</sup>
- Full Consultation with Alaska Natives on research priorities and a comprehensive development plan that includes Alaska Natives and incorporates traditional, ecological knowledge in Arctic Research.

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27 AFN Convention Resolution 12-33

28 AFN Convention Resolution 12-37 and 11-44



# Alaska Federation of Natives

## Education

Alaska is home to the sixth largest overall population of indigenous people in the United States, according to the 2010 U.S. Census. Alaska Natives constitute 19.5% of the state's population, and 23% of its school population (25% including American Indians). In 2001, nearly 60% of Alaska Native students continued to attend school in rural and remote communities where K-12 school enrollments ranged from eight students with one teacher to larger schools with 500 students or more.<sup>29</sup> The remaining 40% of Alaska Native students were in urban schools where the majority of the student enrollment is non-native. The unique geographic, historical, and cultural context in Alaska presents unique challenges and opportunities for educating our children.

### First 100 Days

- Keep the Elementary and Secondary Education ACT (ESEA) intact. The unique challenges of rural Alaska are not addressed in a number of bills that eliminate needed funding. Amend ESEA so that funding is administered by Alaska Native organizations in order to improve education for Alaska Native youth and maximize leadership and involvement of Alaska Native organizations in such efforts, including pilot projects designed to increase tribal authority in the public schools through ESEA.<sup>30</sup>
- Create greater opportunities and exposure for tribal programs and organizations to access funding for indigenous language instruction among school-aged students through H.R. 4766, the Esther Martinez Native Language Preservation Act.
- Support continued federal funding through the No Child Left Behind Act, and especially the Alaska Native Education Equity Act, to tribal communities for the development of curriculum and educational programs that are aligned with, and reflect, the culture diversity, language and contributions of Alaska Native People, and provide Alaska Native organizations with the ability to train teachers and increase graduation rates among Alaska Native students. Continued federal funding through these programs to tribal communities will provide the leverage necessary to drive education change in our school districts.<sup>31</sup>
- Provide a significant increase to Head Start funding over FY2012, and allow Head Start to adopt more accurate poverty guidelines, perhaps using state data, taking into account the higher cost of living in rural areas. Head Start currently uses "100% of the federal poverty guideline (FPL)" to determine eligibility for services; however, the FPL uses Anchorage rates for the whole state, despite a much higher cost of living in rural Alaska.

<sup>29</sup> Alaska Native Knowledge Network, A HISTORY OF SCHOOLING FOR ALASKA NATIVE PEOPLE

<sup>30</sup> AFN Convention Resolution 12-06, 12-09, and similar resolutions from the National Congress of American Indians, National Indian Education Association, and the Tribal Education Departments National Assembly.

<sup>31</sup> AFN Convention Resolution 12-06

## First Year

- Reaffirm and acknowledge the Department of Education's federal trust responsibility to Alaska Native students. The President issued his Executive Memorandum regarding implementation of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, in November 2009. The Department of Education has yet to release its consultation policy. As a result, tribes are still fighting for a seat at the table—both with the Department and with state governments—in developing meaningful education policy for Native students. The Department must ensure that tribes are key stakeholders in these discussions. The Department must engage in meaningful consultation with tribes prior to the development of regulations that will affect Native students and how schools are funded.
- Engage in the White House Initiative on American Indian and Native American Education. Because there are no reservation or Department run schools in Alaska, we will work with the Department of Interior, Department of Education, and appropriate State Departments of Education to ensure Alaska Native students are considered and provided opportunities to expand their education and improve educational outcomes.
- Provide funding for tribal Vocational Training Programs. Putting America back to work means training our work force in the skills needed in critical industries. Many of our tribal non-profits run training programs focused on the skills needed by employers in Alaska, and they know to meet the needs of Alaska Natives. They need support.
- Include tribal provisions for technical training in all federal agency education and job training programs, and foster the creation of bridge programs that would enable tribal members to fulfill academic prerequisites to move into more advanced jobs or educational environments.



# Alaska Federation of Natives

## Health & Wellness

Tribal citizens encounter several barriers to adequate health care, including a lack of access to specialized care, long distances to Indian Health Service (IHS) and/or tribal facilities, and culturally incompetent care. Collectively, tribal communities suffer from higher rates of obesity and diabetes. Native women experience infant mortality rates nearly 50% higher than their white counterparts. In addition, tribal communities struggle with the same social ills that many larger communities battle, including alcohol and substance abuse and suicide. Of these, American Indians and Alaska Natives report more monthly binge drinking episodes and higher alcohol consumption per episode than any other racial group. These factors and others result in the highest drug-induced mortality rate among women for American Indians and Alaska Natives, and suicide rates that are more than twice that of Blacks, Asian Pacific Islanders, and Hispanics.

This Administration has strengthened its partnership with Native nations to defend communities against the leading statistics. Most importantly, the Administration successfully passed the Patient Protection and Affordable Care Act (ACA). This law included permanent reauthorization of the Indian Health Care Improvement Act, which brought the entire IHS system, including tribal and urban programs and clinics, into the new system of health care delivery. Successful and seamless implementation of the ACA will increase health care access for American Indians and Alaska Natives, support the IHS system of care, broaden services provided in rural communities, and strengthen an integral network of providers. In addition, the Administration has proposed and supported improvements in tribal prevention. These programs are designed to be tribally driven, culturally sensitive, and locally provided. Some of these programs have proven to be hugely successful, but replication and expansion is still necessary.

### First 100 Days

- Stress the importance of, and work with Congress on passage of, the Violence Against Women Act.
- Ensure that Indian Health Services fully complies with the Ramah decision so the federal government pays "each Tribe's contract support costs in full."<sup>32</sup>
- Support Housing Security
  - Increase Housing Improvement Program (HIP) funding that has seen annual appropriations drop 50% since 2008 through the American Jobs Bill.<sup>33</sup>
  - Reauthorize NAHASDA for 2013 and 2014 Fiscal Year Funding.<sup>34</sup>

<sup>32</sup> AFN Convention Resolution 12-30 and U.S Senator Mark Begich letter

<sup>33</sup> AFN Convention Resolution 12-22

<sup>34</sup> AFN Convention Resolution 12-26



# Alaska Federation of Natives

## First Year

- Ensure the seamless implementation of key ACA provisions through inclusion of tribal consultation.
- Continue to support and request increased funding for the Indian Health Service. The IHS has been underfunded for decades. In FY 2011 the IHS was finally “fully funded.” We believe that Congress should continue to provide full funding.<sup>35</sup>
- Provide funding for Suicide Prevention. Alaska leads the nation in deaths by suicide, with Alaska Natives being particularly vulnerable.<sup>36</sup>
- Pass the Alaska Safe Families and Villages Act. This act would create a demonstration project by which participating tribes would have clearly confirmed authority to enforce tribal laws regarding alcohol and substance abuse, and domestic violence, within their villages.

## Alaska Federation of Natives

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<sup>35</sup> AFN Convention Resolution 11-28  
<sup>36</sup> AFN Convention Resolution 12-24



# NATIONAL CONGRESS OF AMERICAN INDIANS

November 27, 2012

## EXECUTIVE COMMITTEE

PRESIDENT  
**Jefferson Keel**  
*Chickasaw Nation*

FIRST VICE-PRESIDENT  
**Juana Majel Dixon**  
*Pauma Band of Mission Indians*

RECORDING SECRETARY  
**Edward Thomas**  
*Central Council of Tlingit & Haida  
Indian Tribes of Alaska*

TREASURER  
**W. Ron Allen**  
*Jamestown S'Klallam Tribe*

## REGIONAL VICE-PRESIDENTS

ALASKA  
**Bill Martin**  
*Central Council of Tlingit & Haida  
Indian Tribes of Alaska*

EASTERN OKLAHOMA  
**S. Joe Crittenden**  
*Cherokee Nation*

GREAT PLAINS  
**Robert Shepherd**  
*Sisseton Wahpeton*

MIDWEST  
**Matthew Wesaw**  
*Pokagon Band of Potawatomi*

NORTHEAST  
**Lance Gumbs**  
*Shinnecock Indian Nation*

NORTHWEST  
**Fawn Sharp**  
*Quinalt Indian Nation*

PACIFIC  
**Don Arnold**  
*Scotts Valley Band of Pomo Indians*

ROCKY MOUNTAIN  
**Scott Russell**  
*Crow Tribe*

SOUTHEAST  
**Larry Townsend**  
*Lumbee Tribe*

SOUTHERN PLAINS  
**George Thurman**  
*Sac and Fox Nation*

SOUTHWEST  
**Joe Garcia**  
*Ohkay Owingeh*

WESTERN  
**Ned Norris, Jr**  
*Tohono O'odham Nation*

EXECUTIVE DIRECTOR  
**Jacqueline Johnson Pata**  
*Tlingit*

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The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable John Boehner  
Speaker of the House  
United States House of Representatives  
Washington, DC 20515

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Minority Leader  
United States House of Representatives  
Washington, DC 20515

Dear Majority Leader Reid, Minority Leader McConnell, Speaker Boehner and Minority Leader Pelosi:

Our undersigned Tribes and Tribal organizations jointly urge action to protect tribal communities and the federal trust responsibility as the nation faces critical choices about how to address the deficit while preventing another recession. As Congress debates the "fiscal cliff," the term for a series of deadlines at the end of 2012 when tax cuts expire and sequestration will take effect, we urge you to avoid any more harmful cuts to Indian programs which would threaten the health and welfare of Indian people.

**The federal trust obligation to Indian tribes must be honored and vital tribal programs must be sustained in any deal to reduce the national deficit.** The obligations to tribal citizens funded in the federal budget are the result of treaties negotiated and agreements made between Indian tribes and the U.S. in exchange for land and resources, known as the trust responsibility. At the heart of the budget debate is the role and size of government. However, the authority to fund programs that fulfill the trust responsibility is founded in the Constitution, specifically the Indian Commerce Clause, the Treaty Clause and the Property Clause. This historic duty should not be sacrificed in any of the budget options or ultimate solutions. **Congress must enact a plan to reduce the deficit through a balanced approach that includes new revenues and does not only rely on domestic spending cuts.**

Due to the failure of a Super Committee agreement, sequestration was triggered, which consists entirely of spending cuts. Non-defense discretionary spending already has absorbed significant reductions through the 10-year spending caps in the Budget Control Act. By 2021, this category of spending will reach its lowest level in more than 50 years and account for just 2.8 percent of the U.S. gross domestic product. Using the estimate of 8.2 percent reductions just for the first year of sequestration, many Indian programs will face difficult reductions below FY2010 levels, when adjusted for inflation.

If sequestration is implemented, examples of the percentage cut from FY 2010 when adjusted for inflation include:

- Native American Job Training, cut by 23%
- Low Income Home Energy Assistance Program (LIHEAP), Tribes, cut by 35%
- Vocational Rehabilitation State Grants, Tribes, cut by 25%
- Indian Housing Block Grant cut by 21%
- Indian Student Education cut by 13%
- Tribal Community Oriented Policing Grants cut by 25%
- Bureau of Indian Affairs (BIA), Trust Natural Resources cut by 24%
- BIA, Operation of Indian Programs cut by 14%

We urge you to make thoughtful decisions to avoid disrupting important governmental responsibilities such as the trust obligations to tribes and addressing the public safety crisis throughout Indian Country. In October 2012, NCAI passed Resolution #SAC-12-051, "Supporting Federal Programs that Fund the Trust Responsibility and Urging the Sequester to be Averted." The abrupt and arbitrary nature of the across-the-board cuts from sequestration will have damaging effects on the progress made in addressing the serious problems facing Indian Country. Cuts at the sequester level of 8.2 percent, or deeper, to investments in education, housing, roads, law enforcement, tribal courts, natural resources, energy development, job training, and health care would deal a devastating blow to the economic conditions in Indian Country. The blunt mechanistic savings from sequestration is not good public policy and should be averted. **Please work together to find a balanced approach to deficit reduction that does not include further cuts to tribal programs as part of the non-defense discretionary budget.**

Sincerely,



President, NCAI

CC: The Honorable Daniel K. Akaka, Chairman, Senate Indian Affairs Committee  
The Honorable John Barrasso, Ranking Member, Senate Indian Affairs Committee  
The Honorable Jack Reed, Chairman, Senate Appropriations Interior Subcommittee  
The Honorable Lisa Murkowski, Ranking Member, Senate Appropriations Interior Subcommittee  
The Honorable Don Young, Chairman, House Natural Resources Committee, Indian and Alaska Native Affairs Subcommittee  
The Honorable Ben Ray Luján, Ranking Member, House Natural Resources Committee, Indian and Alaska Native Affairs Subcommittee  
The Honorable Mike Simpson, Chairman, House Appropriations Interior Subcommittee  
The Honorable James P. Moran, Ranking Member, House Appropriations Interior Subcommittee

**Tribes and Intertribal Organizations Standing Together in Support:**National Tribal Organizations

American Indian Higher Education Consortium ([www.aihec.org](http://www.aihec.org))  
Americans for Indian Opportunity ([www.aio.org](http://www.aio.org))  
Center for World Indigenous Studies ([www.cwis.org](http://www.cwis.org))  
Indian Nations Conservation Alliance ([www.inca-tcd.org](http://www.inca-tcd.org))  
Institute of American Indian Arts ([www.iaia.edu](http://www.iaia.edu))  
Intertribal Buffalo Council ([www.itbcbuffalo.com](http://www.itbcbuffalo.com))  
Intertribal Timber Council ([www.itcnet.org](http://www.itcnet.org))  
Intertribal Transportation Association  
National American Indian Housing Council ([www.naihc.net](http://www.naihc.net))  
National Association of Tribal Historic Preservation Officers ([www.nathpo.org](http://www.nathpo.org))  
National Center for American Indian Enterprise Development ([www.ncaied.org](http://www.ncaied.org))  
National Indian Child Welfare Association ([www.nicwa.org](http://www.nicwa.org))  
National Indian Council on Aging, Inc. ([www.nicoa.org](http://www.nicoa.org))  
National Indian Education Association ([www.niea.org](http://www.niea.org))  
National Indian Gaming Association ([www.indiangaming.org](http://www.indiangaming.org))  
National Indian Health Board ([www.nihb.org](http://www.nihb.org))  
National Tribal Environmental Council ([www.ntec.org](http://www.ntec.org))  
Native American Contractors Association ([www.nativecontractors.org](http://www.nativecontractors.org))  
Native Community Development Financial Institutions Network  
Native Public Media, ([www.nativepublicmedia.org](http://www.nativepublicmedia.org))  
Self-Governance Advisory Committee  
Tribal Education Departments National Assembly ([www.tedna.org](http://www.tedna.org))

Tribal Organizations and Native Corporations

Afognak Native Corporation (Alaska)  
Alaska Federation of Natives (Alaska)  
Aleutian Pribilof Islands Association (Alaska)  
California Association of Tribal Governments (CA)  
Four Bands Community Fund (South Dakota)  
Great Plains Tribal Chairman's Association (ND, SD, NE)  
InterTribal Council of Arizona  
Midwest Alliance of Sovereign Tribes (IA, MN, MI, WI)  
Northwest Indian Fisheries Commission (WA)  
Sealaska Corporation (Alaska)  
United South and Eastern Tribes (AL, CT, FL, LA, ME, MA, NY, NC, MS, TN, TX)  
United Tribes of North Dakota

Tribal Governments

Bois Forte Reservation Tribal Council (Minnesota)  
Central Council of Tlingit and Haida Indians (Alaska)  
Cherokee Nation (Oklahoma)  
Chickaloon Village Traditional Council (Alaska)  
Chickasaw Nation (Oklahoma)  
Choctaw Nation (Oklahoma)  
Citizen Potawatomi Nation (Oklahoma)  
Cowlitz Indian Tribe (Washington)  
Forest County Potawatomi (Wisconsin)  
Fond du Lac Band of Lake Superior Chippewa (Minnesota)  
Hualapai Tribe (Arizona)  
Jamestown S'Klallam Tribe (Washington)  
Leech Lack Band of Ojibwe (Minnesota)  
Lower Elwha Klallam Tribe (Washington)  
Lummi Nation (Washington)  
Menominee Indian Tribe of Wisconsin  
Native Village of Afognak (Alaska)  
Nez Perce Tribe (Idaho)  
Pawnee Nation of Oklahoma  
Penobscot Nation (Maine)  
Pokagon Band of Potawatomi Indians (Michigan)  
Red Lake Band of Chippewa Indians (Minnesota)  
Sac and Fox Nation (Oklahoma)  
Saginaw Chippewa Indian Tribe (Michigan)  
Shawnee Tribe (Oklahoma)  
Shoshone-Bannock Tribes (Idaho)  
Sitka Tribe of Alaska (Alaska)  
Skokomish Tribe (Washington)  
Suquamish Tribe (Washington)  
Swinomish Tribe (Washington)  
Ute Mountain Ute Tribe (Colorado/Utah)



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #SAC-12-051

### TITLE: Supporting Federal Programs that Fund the Trust Responsibility and Urging the Sequester to be Averted

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, the obligations to tribal citizens funded in the federal budget are the result of treaties negotiated and agreements made between Indian tribes and the U.S. in exchange for land and resources, known as the trust responsibility; and

**WHEREAS**, the authority to fund programs that fulfill the trust responsibility is founded in the Constitution, specifically the Indian Commerce Clause, the Treaty Clause and the Property Clause; and

**WHEREAS**, a significant number of programs funding trust responsibilities are in the non-defense discretionary portion of the federal budget, and the resolution to the debate over how to address sequestration could considerably impact resources to tribal governmental services and Indian programs for years to come; and

**WHEREAS**, Congress approved the Budget Control Act (BCA) August of 2011, which became Public Law 112-25; and

**WHEREAS**, the BCA consisted of a two-stage deficit-reduction process: it set funding caps for annual appropriations bills through 2021 to save about \$1 trillion, and it set up a bipartisan Joint Select Committee on Deficit Reduction to work out a deficit-reduction package to save at least another \$1.2 trillion, which could include a combination of spending cuts to discretionary and mandatory spending, or revenue increases; and

**WHEREAS**, because the Joint Select Committee did not reach a deficit reduction deal, under the BCA, most discretionary federal programs will face sequestration, an across-the-board cut of 8.2 percent in January of 2013 unless Congress enacts a plan before then to reduce the national debt by \$1 trillion over 10 years; and

#### EXECUTIVE COMMITTEE

PRESIDENT  
**Jefferson Keel**  
*Chickasaw Nation*

FIRST VICE-PRESIDENT  
**Juana Majel Dixon**  
*Pauma Band of Mission Indians*

RECORDING SECRETARY  
**Edward Thomas**  
*Central Council of Tlingit & Haida  
Indian Tribes of Alaska*

TREASURER  
**W. Ron Allen**  
*Jamestown S'Klallam Tribe*

#### REGIONAL VICE-PRESIDENTS

ALASKA  
**Bill Martin**  
*Central Council of Tlingit & Haida  
Indian Tribes of Alaska*

EASTERN OKLAHOMA  
**S. Joe Crittenden**  
*Cherokee Nation*

GREAT PLAINS  
**Robert Shepherd**  
*Sisseton Wahpeton*

MIDWEST  
**Matthew Wesaw**  
*Pokagon Band of Potawatomi*

NORTHEAST  
**Lance Gumbs**  
*Shinnecock Indian Nation*

NORTHWEST  
**Fawn Sharp**  
*Quinault Indian Nation*

PACIFIC  
**Don Arnold**  
*Scotts Valley Band of Pomo Indians*

ROCKY MOUNTAIN  
**Scott Russell**  
*Crow Tribe*

SOUTHEAST  
**Larry Townsend**  
*Lumbee Tribe*

SOUTHERN PLAINS  
**George Thurman**  
*Sac and Fox Nation*

SOUTHWEST  
**Joe Garcia**  
*Ohkay Owingeh*

WESTERN  
**Ned Norris, Jr**  
*Tohono O'odham Nation*

EXECUTIVE DIRECTOR  
**Jacqueline Johnson Pata**  
*Tlingit*

**NCAI HEADQUARTERS**  
1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
www.ncai.org

**WHEREAS**, if sequestration is not averted, deficit reduction will consist entirely of spending cuts, even though non-defense discretionary spending already has absorbed significant reductions through the 10-year spending caps in the Budget Control Act; and

**WHEREAS**, by 2021, discretionary spending will reach its lowest level in more than 50 years and account for just 2.8 percent of the U.S. gross domestic product; and

**WHEREAS**, the nation faces critical choices about how to address the deficit while preventing another recession, and still maintain federal programs for education, housing, roads, law enforcement, tribal courts, energy development, job training, and health care and other programs serving Indian Country; and

**WHEREAS**, the abrupt and arbitrary nature of the across-the-board cuts from sequestration will have damaging effects on the progress made in addressing the serious problems facing Indian Country, especially for the full implementation of the recently passed Indian Health Care Improvement Act and Tribal Law & Order Act; and

**WHEREAS**, although the Congressional Research Service reported that, “under Section 256(e) of the [Balanced Budget and Emergency Deficit Control Act of 1985], sequestration may only reduce funding appropriated to the two [Indian Health Service (IHS)] accounts by 2 percent in any fiscal year,” the Office of Management and Budget subjects the IHS discretionary accounts to the 8.2 percent across-the-board cut; and

**WHEREAS**, because of recent reductions to tribal programs, if sequestration is implemented, the percentage cut will be deeper than 8.2 percent when compared to FY 2010 levels adjusted for inflation. If the sequester hits, examples of the reduction to programs in FY 2013 include:

- Low Income Home Energy Assistance Program (LIHEAP) for Tribes, cut by 35%;
- Vocational Rehabilitation State Grants, for Tribes, cut by 25%;
- Indian Housing Block Grant cut by 21%;
- Indian Student Education cut by 13%;
- Tribal Community Oriented Policing Grants cut by 25%;
- Total, Bureau of Indian Affairs (BIA), Operation of Indian Programs cut by 14%;
- Native American Job Training cut by 23%; and

**WHEREAS**, education programs essential to American Indian and Alaska Native students will be in peril: for example, Impact Aid, the oldest elementary and secondary federal education program administered by the U.S. Department of Education and designed to reimburse local educational agencies for the loss of traditional revenue due to the presence of tax-exempt property or Federal activity, will be cut by \$100 million in the middle of the 2012-2013 school year; and

**WHEREAS**, Impact Aid payments are allocated directly to local educational agencies for military bases, Indian lands, low-rent housing, and other federal property in lieu of local tax dollars to assist with the basic educational needs of the thousands of students served by those local educational agencies; and

**WHEREAS**, all other federal education programs, including Title I and the Individual Disability Education Act, will also see a reduction in funding of between 8 and 9 percent starting in the 2013-2014 school year; and

**WHEREAS**, tribes across the United States have effectively used the Native American Housing Assistance and Self-Determination Act (NAHASDA) funding to address the acute housing needs of American Indian and Alaska Native people, as indicated by a 2010 report of the United States Government Accountability Office noting that NAHASDA recipients constructed 13,141 new homes, acquired 4,611 existing homes, and rehabilitated more than 32,000 homes between 2003 and 2008 alone; and

**WHEREAS**, in FY 2011, Congress reduced funding for NAHASDA's Indian Housing Block Grant program by more than 7 percent (\$50 million) and reducing NAHASDA funding by an additional 7-10 percent through sequestration, rescission, or other across-the-board funding cuts would greatly inhibit the ability of NAHASDA recipients to address the ongoing shortage of safe, affordable housing in the communities they serve; and; and

**WHEREAS**, if policymakers enact a deficit reduction plan that relies entirely or almost entirely on spending cuts, the damage to Indian programs will be much more severe than sequestration and domestic programs cannot continue to bear the brunt of deficit reduction, nor can continued cuts balance the budget; and

**WHEREAS**, completely eliminating all domestic discretionary programs would not balance the budget; yet they have borne the brunt of deficit reduction efforts. If sequestration is allowed to take effect, core services for American Indians, and all Americans, will be greatly curtailed or even eliminated.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI urges sequestration, which imposes reductions that undermine the trust responsibility, to be averted and replaced with a plan to reduce the deficit through an approach that does not only rely on cutting domestic spending; and

**BE IT FURTHER RESOLVED**, that the historic Constitutional duty of the trust responsibility should not be sacrificed in any of the budget options or ultimate bargains to achieve deficit reduction; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2012 Annual Session of the National Congress of American Indians, held at the Sacramento Convention Center from October 21-26, 2012 in Sacramento, California, with a quorum present.

  
\_\_\_\_\_  
President

**ATTEST:**

  
\_\_\_\_\_  
Recording Secretary

2012 White House  
Tribal Nations Summit  
Washington, DC

Tribal Leader  
Briefing Book



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American  
Indians



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# TRIBAL LEADER BRIEFING BOOK

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White House events, NCAI sponsored meetings, receptions, agency, and legislative events.
2. **Briefing Papers**
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Transformative priorities for the President and priorities during the Lame Duck session.
  - b. **Papers of Relevance to All Breakout Sessions**
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    - The Fiscal Cliff & Honoring the Trust Responsibility
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      - Trust Reform
      - Energy
      - Climate Change
      - Alaska Native Subsistence
      - Water Rights



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# SCHEDULE OF EVENTS



# 2012 WHITE HOUSE TRIBAL NATIONS SUMMIT

## SCHEDULE OF EVENTS

*Current as of November 30, 2012*

### ALL WEEK: CAPITOL HILL MEETINGS

The "Lame Duck" session of Congress is a critical moment to have Indian Country's voice heard. NCAI urges tribal leaders to make time for Hill meetings to ensure focus on Indian Country's priorities, including: **The Indian Country budget, Carcieri fix, Violence Against Women Act (VAWA) reauthorization, and Stafford Act amendments.** Please contact Brian Howard ([bhoward@ncai.org](mailto:bhoward@ncai.org)) for assistance in scheduling meetings.

### PREPARATORY MEETING: DECEMBER 4

NCAI and our regional intertribal partner organizations will host an in-person preparatory meeting on December 4:

**December 4 | 5-7pm**

**Tribal Leaders Preparatory Meeting for the White House Tribal Nations Summit**

Four Points Sheraton, 1201 K Street NW

### FULL SCHEDULE

#### Monday, December 3

**NCAI FY 2014 Budget Request Meeting**

9:00 a.m. – 1:00 p.m.

Embassy of Tribal Nations | 1516 P Street NW

**Tribal Interior Budget Council: Tribal Caucus**

3:00 – 5:00 p.m.

Four Points Sheraton, 1201 K Street NW, Washington DC

#### Tuesday, December 4

**Tribal Interior Budget Council Meeting**

8:00 a.m. – 5:00 p.m.

Four Points Sheraton, 1201 K Street NW, Washington DC

**NIGA Legislative Summit**

9:00 a.m. – 2:00 p.m.

Senate Committee on Indian Affairs

Dirksen Senate Building Room 628

**Tribal Leader Discussion on Tax and Investment Reform**

Hosted by the Inter-Tribal Organization Tax Initiative

2:00 p.m. – 4:00 p.m.

Senate Dirksen Building, Room 215

**Tribal Leaders Preparatory Meeting for the White House Tribal Nations Summit**

5:00 p.m. – 7:00 p.m.

Four Points Sheraton, 1201 K Street NW

#### Wednesday, December 5

**White House Tribal Nations Summit**

*by White House Invitation Only\**

9:00 a.m. to 3:30 p.m.

*Doors open at 7:00 a.m.*

Department of the Interior, Sidney R. Yates Auditorium.

*For more info:* [whitehouse.gov/TribalNationsConference](http://whitehouse.gov/TribalNationsConference)

**VIEWING OF THE- White House Tribal Nations Conference**

Open to all, hosted by NCAI

Coffee and light breakfast from 8 a.m.

9:00 a.m. – 3:30 p.m.

Embassy of Tribal Nations, 1516 P Street NW

**Tribal Leader Reception**

6:30 p.m. – 8:30 p.m.

National Museum of the American Indian

4<sup>th</sup> St and Independence Avenue, SW

RSVP to [NMAI-rsvp@si.edu](mailto:NMAI-rsvp@si.edu) or 202-633-7020 by 12/2/2012

#### Thursday, December 6

**Alaska Senate Delegation Constituent Coffee**

8:30-9:30am, 210 Capitol Visitors Center

RSVP to [kristen\\_daimler@murkowski.senate.gov](mailto:kristen_daimler@murkowski.senate.gov) or

[maya\\_ashwal@begich.senate.gov](mailto:maya_ashwal@begich.senate.gov)

**Indian Health Service Listening Session**

9:00 a.m.– 12:00 p.m.

Great Hall, Department of the Health and Human Services

Hubert H. Humphrey Building

Register here: <http://svy.mk/Tv3k41>

**Department of Energy Listening Session and Indian Country Working Group Meeting**

*Listening Session:* 10:00am–12:00pm, Department of Interior South Building Auditorium, 1951 Constitution Ave, NW

*Working Group Meeting:* 1:00–4:40 p.m., DOE Headquarters 1000 Independence Ave SW, Room GH-019

RSVP by Dec 3 to [pilar.thomas@hq.doe.gov](mailto:pilar.thomas@hq.doe.gov) or 202-287-6566

#### Thursday & Friday, December 6 & 7

**Agency Follow-Up Meetings**

*Agencies are likely to hold follow-up meetings to engage tribal leaders that will be attending the White House Tribal Nations Summit. Times and locations to be announced.*

### RESCHEDULED MEETINGS

**Department of Health and Human Services Secretary's Tribal Advisory Committee meeting** *Rescheduled from*

*original dates of December 6-7, now will be held January 16-17, 2013.*

**Indian Trust Commission**

Two-day session in Seattle, Washington on December 6 and 7 has been postponed. New date will be announced soon.

*Unless otherwise noted, all events are open as long as you follow RSVP procedures noted above.*



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# FRAMING PAPER



## OUR NATION-TO-NATION RELATIONSHIP SECURITY AND PROSPERITY FOR TRIBAL NATIONS AND THE UNITED STATES

After a first term of unprecedented achievements in advancing the relationship between tribal nations and the federal government, President Obama faces a unique opportunity to set the standard for tribal-federal engagement for generations to come. As the nation faces fundamental choices about the path it will take to economic security and sustained prosperity, many of the recommendations in this briefing book outline opportunities to invest in Indian Country's economic potential and build stronger economies that benefit all Americans. From sacred places to public safety, alternative energy to broadband, tribes offer real solutions that can ensure economic security and build sustainable prosperity for generations to come.

### TRANSFORMATIVE ACTION ITEMS FOR THE PRESIDENT'S SECOND TERM

Indian Country's top priorities for actions that will transform our nation-to-nation relationship include:

1. **Visit Indian Country.** A Presidential visit to Indian Country offers a unique opportunity for President Obama to draw national attention to his commitment to our nation-to-nation relationship. As the President focuses on strengthening the economic recovery, his visit should coincide with a meeting of tribal leaders (not unlike his meetings with leaders of NATO, APEC, and other international leaders; or his regular meetings with governors) and should involve a focused meeting to highlight strategies where partnerships between our governments promise economic security for the United States.
2. **Create an Interagency Native Policy Council.** The Council would be led by a member of the Cabinet, similar to the White House Rural Council and building from the success of the Native Working Group that operated during the Clinton Administration. This leadership would ensure participation at the highest level across the agencies and would facilitate the focus on policies of overlapping responsibility to ensure effective interagency coordination. Focus areas would include consultation, tax, law enforcement, education, and data collection, among others.
3. **Modernize the Trust Relationship.** Recognizing the new era that has been launched by the finalization of *Cobell* and other trust settlements, the President should require the Department of the Interior to take the lead – with other federal agencies – to work with tribes in a true partnership to identify strategies to modernize the trust relationship and determine priorities focused on creating economic security and strengthening our communities.
4. **Establish an Administration-wide Policy on Sacred Places.** The President's commitment to Indian Country must include a robust commitment to our religious freedom and places of religious and cultural significance. While there have been some positive steps to establish individual agency policies, tribal leaders need a consistent policy across the agencies that will protect and honor sacred places.
5. **Promote Economic Security by Ensuring Governmental Parity between Tribes and States.** Federal policy that fails to recognize governmental parity between tribes and states hurts the American economy by limiting the economic potential of tribal nations. The President should act to ensure tribes are recognized alongside their state government peers in federal policy. Acknowledging governmental parity in energy policy would promote tribal economic security and contribute to America's energy independence. Full inclusion of tribes in tax reform

promises significant economic benefits that would contribute to regional economic success throughout the nation.

6. **Recognize our Nation-to-Nation Relationship in International Forums.** The 2014 World Conference on Indigenous Peoples, offers a unique opportunity for the President to draw international attention to his commitment to our nation-to-nation relationship. Tribal leaders expect to see our President open the 2014 Conference by inspiring Indigenous peoples and challenging governments around the world, with the commitments his Administration has made to our nation-to-nation relationship. Two specific commitments that could be highlighted in that address include: (1) support for the full representation of tribal nations at the UN in a manner consistent with nation states, and (2) full implementation of the UN Declaration on the Rights of Indigenous Peoples.
7. **Prioritize Appointments that Impact Indian Country.** Elevating Native people in the federal government was a top priority for Indian Country during the 2008 Presidential transition and the President made significant progress on priority appointments in his first term. Key priorities for the second term include:
  - a. **Create an Associate Director for Native Programs position in the Office of Management and Budget (OMB).** This position would act to coordinate priorities across the federal government and ensure that OMB budgets and policies provide stable funding for tribal governments
  - b. **Appoint Native People to the Federal Judiciary.** Indian Country strongly urges the appointment of Native judges, as well as more judges who are knowledgeable and supportive of the fundamental principles of federal Indian law.
  - c. **Hire Young Native Professionals to Entry and Mid-Level Positions.** Placing bright, enthusiastic Native professionals throughout the federal government will invest in our future and prepare for success in future Administrations.
8. **Direct the Census Bureau to Lead a Periodic Indian Country Economic Survey.** Current federal data about socioeconomic conditions in Indian Country are insufficient to support tribal and federal policymaking. The Census Bureau has the capacity to gather meaningful tribal input and coordinate data efforts with other agencies to develop a regular economic survey that provides data to support tribal and federal policymaking to establish economic security and prosperity for our nations.
9. **Ensure Tribes are Included in National Policy Reform Efforts.** Tribes must be at the table as the Administration works with legislative leaders to develop reform efforts on issues including tax, education, elections, immigration, and climate change. Like state governments, tribal nations have a role to play in each of these major pieces of legislation.

## LAME DUCK SESSION OF CONGRESS

Before the end of his first term, the President has the opportunity to advance tribal priorities related to economic security and public safety in the following areas:

1. **Protect the Indian Country Budget.** Ensure budget items that meet the trust obligation of the federal government to tribal nations are protected.
2. **Provide certainty in land transactions.** Urge Senate and House leadership to hotline the "clean" *Carcieri* bills to a floor vote.
3. **Ensure successful passage of tribal provisions in VAWA.** Encourage House leadership to accept the Senate version of the Violence Against Women Act reauthorization.
4. **Enhance emergency management tools.** Urge Senate leadership to hold a vote on tribal amendments to the Stafford Act.

We also call upon the President to prioritize the reauthorization of other key legislation including the Farm Bill, the Esther Martinez Native American Languages Preservation Act, and the Special Diabetes Program for Indians. If the Congress fails to act on any of the above priorities during the Lame Duck session, the President should reiterate his strong support for the passage of these critical pieces of legislation in the 113<sup>th</sup> Congress.

### **AGENCY SPECIFIC RECOMMENDATIONS**

This paper introduces the briefing book that contains background materials and recommendations to prepare tribal leaders for the 2012 White House Tribal Nations Summit. The more detailed papers contain agency specific recommendations and have been developed in partnership with regional intertribal organizations and tribal leaders. The briefing book includes recommendations that tribal leaders will refine in meetings in early 2013 (a meeting coinciding with the inauguration on January 22 and as part of NCAI's Executive Council Winter Session).

NCAI welcomes ongoing feedback on the content of this briefing book and encourages tribal leaders to send all input to Peter Morris, NCAI Senior Advisor ([pmorris@ncai.org](mailto:pmorris@ncai.org) or 202.466.7767) and John Dossett, NCAI General Counsel, at ([jdossett@ncai.org](mailto:jdossett@ncai.org) or 202.466.7767).



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# ALL BREAKOUTS



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## CONSULTATION & HIGH LEVEL ENGAGEMENT STRENGTHENING OUR NATION-TO-NATION RELATIONSHIP

Throughout American history, tribal nations have been recognized as governments that pre-dated the United States and have maintained the right to govern their own people and their own lands. The United States Constitution specifically recognizes the status of tribal nations as sovereign governments. From this legal recognition stems a nation-to-nation relationship between tribes and the federal government—a relationship that is documented in historical treaties and affirmed by subsequent laws, policies, and Supreme Court opinions. We commend President Obama and his Administration for their demonstrated commitment to the nation-to-nation relationship, and we urge the redoubling of efforts to strengthen this relationship in the President's second term.

Since President Obama issued his November 5, 2009, Executive Memorandum on consultation and coordination with tribal governments under President Clinton's Executive Order 13175, many federal agencies have increased their consultation activities with tribes. These activities have coincided with elevated engagement with tribal leaders by the President and senior members of his Administration. In this paper, we urge specific steps to expand high level engagement and improve consultation.

### EXPAND HIGH LEVEL ENGAGEMENT

During his first campaign, President Obama's commitment to host an annual summit with tribal leaders at the White House was transformative. His commitment to keeping that promise and supporting the importance of tribal consultation has had a noticeable effect on his Administration.

In addition to the annual White House Tribal Nations Summit, the White House has co-hosted forums in partnership with the White House Rural Council and White House Business Council, and several Cabinet secretaries have made unprecedented efforts to engage with tribal leaders. To advance and institutionalize this high level engagement with tribal leaders, we recommend the following additional steps during the President's second term:

#### *Recommendations*

1. **Send a Special Message to Congress on the importance of the Nation-to-Nation Relationship.** In 1970, President Nixon sent a historic message to Congress on tribal self-determination. That message launched the self-determination era—the very framework that allowed tribes to prove our capacity as governments. President Obama's Special Message to Congress could underscore the advances he has led and establish the legacy of his leadership to advance our nation-to-nation relationship.
2. **Fully implement the United Nations Declaration on the Rights of Indigenous Peoples.** This would include a full review of all existing and proposed federal law to ensure alignment with the Declaration.

3. **Enhance existing high level meetings.** Tribal leaders are encouraged by the President's commitment to the annual Tribal Nations Summit. However, we have specific recommendations that should guide future summits and other high level meetings:
  - a. **White House Conferences and agency advisory councils enhance but cannot supplant consultation.** These mechanisms cannot replace specific and meaningful consultation. In general, the meetings do not provide adequate time—or sufficient representation—to supplant consultation.
  - b. **Tribes must be equal partners in planning and implementing high level meetings.** As in other nation-to-nation and government-to-government dialogues, the leaders of tribal governments must play an equal role. Tribal leaders have suggested co-chairing White House Tribal Nations Conference discussions and read outs.
  - c. **Indian Country must be involved in selecting representatives to advisory groups.** Tribal leaders have underscored the need for agency level committees (such as the Secretary's Tribal Advisory Committee, or STAC, convened by Secretary of Health and Human Services, Kathleen Sebelius) to include a number of representatives selected by Indian Country. To truly advance the nation-to-nation relationship, these advisory groups cannot be selected exclusively by the agencies.
  - d. **Tribal leaders must have the option for staff support comparable to that afforded to senior Administration officials.** The regional meetings at the 2011 White House Tribal Nations Conferences and several White House forums since have shown promising trends toward including technical experts and staff to support tribal leaders. However, the White House Tribal Nations Conference itself, and many agency level committees, must provide tribal leaders with support comparable to that offered to senior federal officials. If federal technical experts and support staff participate in the meetings, tribal leaders should have the same option to ensure that the nation-to-nation dialogue is as informed and productive as possible.
4. **Host regular meetings on specific issues between tribal leaders and cabinet secretaries and other senior officials.** Following a model like the White House Rural Council, the President should host regular meetings—at the White House—between tribal leaders and cabinet secretaries and/or other senior Administration officials.
5. **Seek opportunities for the President, Cabinet, and other officials to meet with tribes in Indian Country.** As President Clinton did during his second term, President Obama has the opportunity to engage with tribal leaders and draw national attention to his commitment to the nation-to-nation relationship by visiting Indian Country and urging his Cabinet officials to do the same.

## STEPS TO SPECIFICALLY IMPROVE CONSULTATION

Reflecting on the significant progress of the past four years and looking forward to President Obama's second term, we recommend the following principles guide the President's actions to improve consultation with tribal nations.

### *Recommendations*

1. **Focus on substance.** Despite increased consultation sessions, agencies continue to place too much emphasis on process, rather than on the substantive requirements of E.O. 13175. We urge

more agencies to focus their consultation sessions, just as the Department of Justice did with its Violence Against Women Act “framing paper,” so that the time and energy of tribal leaders and federal officials is used effectively.

2. **Establish transparent accountability mechanisms.** The Administration should focus on the immediate development and implementation of accountability mechanisms and a reporting system to track progress. Tribal leaders often spend a great deal of time and resources providing feedback to a federal agency, only to receive little response directed toward their recommendations and concerns. The President’s direction in his 2009 Executive Memorandum on E.O. 13175 laid out an important option for accountability and reporting by requiring OMB to prepare a report on consultation. We urge OMB to prepare—and publically release—an annual report that tracks agency actions to address the issues raised during tribal consultation, reports back to tribes on the status of these issues, and identifies promising practices in consultation.
3. **Make consultation enforceable.** Tribes need equal bargaining power on issues that impact their lands and their people. The President should support legislation to institutionalize consultation and make it legally enforceable.
4. **Modernize the consultation process.** While specific, in-person consultations are necessary, there is an opportunity to use technology and other strategies to streamline consultation. This would include the creation of a system for tribes to electronically engage on consultation—to monitor issues, schedule follow up meetings, and effectively coordinate comments.
5. **Facilitate stronger interagency communication and coordination.** As appropriate, agencies should explore opportunities for joint consultation sessions on similar issues to maximize tribal leader input and advance coordinated responses to tribal leader concerns.

*For additional information, please contact Mark Carter, Legal Fellow, at 202.466.7767 or [mcarter@ncai.org](mailto:mcarter@ncai.org).*



## THE FISCAL CLIFF AND HONORING THE TRUST RESPONSIBILITY

Tribal leaders recognize the state of the economy, the pressures on government at all levels, and the related challenges for job seekers. Tribes urge action to protect tribal communities and the federal trust responsibility as the nation faces critical choices about how to address the deficit while preventing another recession. The options before us represent one of the most significant social policy debates in decades. As Congress debates the "fiscal cliff"—the term for a series of deadlines at the end of 2012 when tax cuts expire and sequestration will take effect—we urge the President and Congress to avoid any more cuts to Indian programs that would threaten the health and welfare of Native people.

Tribes share the concerns of economists, small business owners, and state and local governments that sequestration will harm our fragile recovery. The sequester would result in a substantial loss of jobs in both the public and private sectors, and will make harmful cuts in vital services needed to promote health, development, and economic security for people and communities nationwide that have already sustained \$1.5 trillion in deficit reduction losses. The fiscal burden should not be shifted to Indian Country or poor and working families who have already borne a disproportionate share of the nation's economic pain in recent years.

The obligations to tribal citizens funded in the federal budget are the result of treaties negotiated and agreements made between Indian tribes and the U.S. in exchange for land and resources, known as the trust responsibility. At the heart of the budget debate is the role and size of government. However, the authority to fund programs that fulfill the trust responsibility is founded in the Constitution, specifically the Indian Commerce Clause, the Treaty Clause, and the Property Clause. This historic duty should not be sacrificed in any of the budget options or ultimate solutions. Given the current state of the economy, tribes have serious concerns that many of the proposals under consideration would require substantial reductions in federal investments, which would remove even more money from the economy and burden tribal citizens and many of the same working families who have already borne the brunt of our nation's deficit reduction efforts.

### *Recommendations*

1. **We urge Congress to stop the sequester.** Instead, Congress should negotiate a responsible solution that includes new revenue. The federal trust obligation to Native nations must be honored and vital tribal programs must be sustained in any deal to reduce the federal deficit.
2. **Create jobs and grow the economy.** Because our economy is still struggling, NCAI urges the Administration and Congress to prioritize job creation and economic growth, especially in Indian Country, in any agreement adopted. This plan must include steps to spur private investment and create targeted investments in infrastructure and education that will grow the economy and create quality jobs.
3. **No cuts to the safety net and vital services for low-income people.** The fiscal burden should not be shifted to poor and working families who have already borne a disproportionate share of the nation's economic pain in recent years.

4. **No cuts to Medicare, Medicaid, and Social Security benefits, and no shifting costs to beneficiaries.** Millions of seniors, children, people with disabilities, and others depend on these vital programs and they must not be cut.

## **ON THE FY 2014 BUDGET AND BEYOND**

A significant number of programs that fund trust responsibilities are in the non-defense discretionary portion of the federal budget. The 112th Congress and the President have already enacted significant deficit reductions. Last year, policymakers enacted the bulk of the reductions in discretionary funding called for in the Bowles-Simpson plan, and these reductions exceed those called for by the Rivlin-Domenici deficit-reduction plan. Discretionary funding reductions will produce \$1.5 trillion in savings for fiscal years 2013 through 2022. This part of the budget includes defense, international programs, and domestic programs ranging from education to law enforcement, food safety, and environmental protection.

Federal agencies that provide important funding for Indian Country include:

- Department of the Interior: Bureau of Indian Affairs and Bureau of Indian Education (Interior appropriations bill)
- Department of Health and Human Services: Indian Health Service, Administration for Children and Families, others (Interior appropriations bill and Labor, HHS, Education bill)
- Department of Education (Labor, HHS, Education appropriations bill)
- Department of Justice: Office of Justice Programs, State and Local Law Enforcement, Office of Violence Against Women, Community Oriented Policing Services (Commerce, Justice, Science appropriations bill)
- Housing and Urban Development: Indian Housing Block Grant, Indian Community Development Block Grant (Transportation, Housing appropriations bill)

### *Recommendation*

1. **Tribal programs, as part of the discretionary budget, have already done their part to reduce the deficit, following the recommendations of the Simpson-Bowles Commission and enacted through the bipartisan Budget Control Act.** Continued cuts will have severe consequences for every tribal citizen. Tribes urge the President and Congress to uphold the solemn promises of the trust responsibility throughout the federal budget in FY 2014 and future years.

“The levels for discretionary defense and [non-defense] spending set by the Budget Control Act of 2011, before any action triggered by the looming sequester in January 2013, are approximately what our Task Force recommended. In short, we believe that further significant cuts in discretionary spending will do little to improve long run fiscal sustainability and risk harming investment, recovery, and future growth. So far, Congress has imposed virtually 100 percent of deficit reduction on less than 37 percent of the budget.”

– Senator Pete Domenici and Dr. Alice Rivlin,  
Co-Chairs, Bipartisan Policy Center Debt Reduction Task Force (June 19, 2012)

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## 2012 Executive Board Grand Mound, WA

RESOLUTION #12 - 67

" PRIORITY ISSUES FOR THE 113<sup>TH</sup> CONGRESS "

### PREAMBLE

We the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, ATNI conducted a Sovereignty Summit November 19 – 20 in Grand Mound, WA with a quorum of Executive Board members present who, along with other member tribes present, determined five issues deemed to be priorities to be moved forward in the 113<sup>th</sup> Congress; and

WHEREAS, the five identified issues being Taxation, Trust Reform, Violence Against Women Act (VAWA), the Budget and Fiscal Cliff, and, a Clean Carcieri Fix; and

WHEREAS, Taxation was identified as a priority issue because the Internal Revenue Service (IRS) has failed in its duty to consult with Tribes regarding the unlawful, unilateral and unconstitutional encroachment upon Tribal Sovereignty with the recent interpretation of the General Welfare Doctrine which is contrary to the long-standing federal policy, federal common<sup>10</sup>

law and the "Per Capita Act" of 1983 (Public Law 98-64) and the "Indian Tribal Judgment Funds Use or Distribution Act" of 1973 (Public Law 93-134); and

WHEREAS, Trust Reform was determined a priority issue because of the long history of mismanagement of tribal trust assets by the US Department of the Interior and the overall failure of the United States in fulfilling its responsibilities as trustee to Indian tribes; and

WHEREAS, the Violence Against Women Act (VAWA) was determined a priority because tribal provisions that would allow tribes to take steps on behalf of Indian women on tribal lands have been excluded from the current House version of the Bill, thereby further jeopardizing the status of Indian women by failing to address jurisdictional issues that create insurmountable barriers to their protection; and,

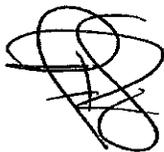
WHEREAS, a clean Carcieri fix was identified as a priority due to the wrongly decided Supreme Court decision regarding *Carcieri v. Salazar*, 129 S.Ct. 1058 (2009) that the Secretary of the Interior lacks authority to take land into trust under the Indian Reorganization Act (25 U.S.C. secs. 465, 479) for Indian tribes that were not under Federal jurisdiction at the time of its passage in 1934 which overturns nearly 75 years of settled Indian trust land law by limiting the Secretary's authority to acquire land in trust for Indian tribes "now under Federal jurisdiction" in 1934 at the time of the IRA's passage; and

WHEREAS, the Budget and Fiscal Cliff were identified as priorities due to the position of Tribal leaders throughout Indian Country that the IHS and BIA appropriations are not "discretionary" by their mere classification in the appropriations process. This funding is provided in fulfillment of the United States federal trust responsibility based on treaty obligations that the United States Congress entered into with Indian Tribes, therefore making it appropriate to exempt IHS and BIA programs from sequestration, now

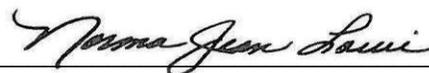
THEREFORE BE IT RESOLVED, that ATNI has determined five priority issues - Taxation, Trust Reform, VAWA, Carcieri and the Budget and Fiscal Cliff - to be addressed in the 113<sup>th</sup> Congress and by the new Administration.

#### CERTIFICATION

The foregoing resolution was adopted at the Executive Board meeting, at Grand Mound, WA, on November 20, 2012 with a quorum present.



\_\_\_\_\_  
Fawn Sharp, President



\_\_\_\_\_  
Norma Jean Louie, Secretary



National  
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# **GOVERNANCE & THE NATION-TO-NATION RELATIONSHIP**



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## TRIBAL SELF-GOVERNANCE

Self-governance is a tribally-driven, congressional legislative option, whereby Tribal governments are authorized to negotiate annual funding and assume management and control of programs, services, functions, and activities (or portions thereof) that the federal government previously managed. Self-governance empowers tribes—as sovereign nations—to exercise their right to self-determination and to manage program funds in ways that best fit the needs of their citizens and communities. Many tribes across Indian Country have vastly improved services on reservations and created hundreds of thousands of jobs through self-governance compacts and contracts.

Since initiation of the first self-governance agreement over two decades ago, the number of tribes operating their programs under this legislation has steadily increased. There are currently 260 self-governance tribes within the Department of the Interior—Bureau of Indian Affairs (DOI-BIA) and 337 self-governance tribes within the Department of Health and Human Services - Indian Health Service (DHHS -IHS). Over the last 25 years, the self-governance tribal leadership and representatives have held ongoing meetings with the Administration and Congress regarding ways to improve and advance self-governance.

### *Recommendations*

1. **Enact Title IV Self-Governance Amendments.** Amending Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA) is a top legislative priority for self-governance tribes. Over the past 35 years, the ISDEAA has been one of the most successful mechanisms for enhancing tribal government capacity. H.R. 2444, the “Department of the Interior Tribal Self-Governance Act of 2011,” was introduced in the House of Representatives in July 2011. Despite the full support of the DOI and the Obama Administration, H.R. 2444 has yet to be considered by the House and was not introduced in the Senate. The 113<sup>th</sup> Congress should consider and pass this legislation.
2. **Expansion of Tribal Self-Governance within HHS.** Title VI of the ISDEAA required the Department of Health and Human Services (HHS) to determine the feasibility of a demonstration project extending tribal self-governance to HHS agencies other than the Indian Health Service. HHS determined it was feasible and convened the Self-Governance Tribal Federal Workgroup (SGTFW) to advance this charge.

The expansion of self-governance within Title VI of the ISDEAA would greatly aid tribes in serving their people. Tribes would be allowed more flexibility to redesign programs that are within the Administration on Aging, Administration on Children and Families, Substance Abuse and Mental Health Administration, and Health Resources and Services Administration, all of which are under HHS. Tribes would be allowed to reallocate program funding with provisions of Title VI legislation to better meet the needs of their citizens.

Tribal leaders are very active in supporting Secretary Kathleen Sebelius’s tribal agenda, including the Tribal Consultation Policy and participation on the Secretary’s Tribal Advisory Council. In

addition, tribal representatives serve on advisory committees and workgroups for several operating divisions within HHS. Tribes urge this Administration to work with us in advancing a Self-Governance Demonstration Project to be implemented in HHS in FY 2014.

3. **Expand Self-Governance to agencies beyond BIA and IHS.** The Administration should actively seek to expand opportunities for tribes to exercise self-determination and administer programs to deliver services to their citizens. When receiving federal funds and administering programs, tribes should be treated as a state or local government. The Administration should consult with tribal governments to identify programs outside of the BIA and IHS that tribes have an interest in and capacity to administer. Demonstration projects could be developed within agencies where there is a high degree of tribal interest and capacity for program administration.

*For additional information, please contact Amber Ebarb, Legislative Associate and Policy Research Center Program Manager, at 202.466.7767 or [aebarb@ncai.org](mailto:aebarb@ncai.org).*



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## INTERNATIONAL INDIGENOUS ISSUES

American Indians and Alaska Natives are increasingly relying on international law and international forums for enforcement of their human rights, which is why President Obama's 2010 endorsement of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) was so important. While not legally binding in and of itself, UNDRIP nevertheless performs the invaluable functions of gathering together in one document the basic rights of Indigenous peoples, educating the public at large about these rights, and providing clear direction for those nation states who have endorsed the Declaration.

Indigenous peoples across the globe plan to use the World Conference on Indigenous Peoples in 2014 to elevate the dialogue about implementation of the UN Declaration and establish global priorities moving forward. In the meantime, however, federal agencies in the U.S. should continue to take concrete and coordinated steps toward implementation of the Declaration.

### *Recommendations*

1. **Hold federal agencies accountable for compliance with the UN Declaration.** President Obama should direct each federal agency to: 1) require its employees to familiarize themselves with the Declaration and its contents; 2) conduct a comprehensive review of the extent of its compliance with the Declaration in order to identify those areas where they fall short; and 3) present a plan for achieving full compliance by a specific date.
2. **Create a Tribal Commission to oversee implementation of the UN Declaration.** The President should create an American Indian and Alaska Native Commission to develop recommendations for implementation of the Declaration, or alternatively, the creation of a joint United States/tribal task force to develop a comprehensive plan for implementation of the Declaration.
3. **Seek full and effective participation by Indigenous peoples in UN fora and processes in a manner consistent with that of nation states.** The UN Declaration affirms that indigenous peoples have the right to self-determination, which clearly distinguishes them from non-governmental organizations (NGOs). Yet, under present UN policies and procedures, Indigenous peoples are often relegated to applying for certification as NGOs or associating with other NGOs if they wish to participate in UN fora and processes. This requirement is an affront to the sovereignty of Indigenous peoples worldwide and disregards their rights under international law. The United States should seek recognition of Indigenous peoples in UN fora in a manner consistent with nation states.

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## TRIBAL STATE RELATIONSHIPS

While the federal government, through Congress, retains exclusive jurisdiction over matters involving tribes, cooperative tribal-state relationships are critical to providing key resources to tribal citizens living on reservations.

During this term, Congress and the Administration must work hard to ensure that tribal governments and state governments work together in an effective manner that honors all members of the American family of governments. They should collaborate in areas such as public safety, tax policy, education, child welfare, business development, emergency management, and natural resource and cultural protection.

### *Recommendations*

1. **Pass legislation that eliminates the uncertainty surrounding tribal lands since the Supreme Court's decision in *Carcieri v. Salazar*.** Support *Carcieri* fix legislation that would enable states and tribes to work towards providing jobs and economic development opportunities for their respective communities.
2. **Support tribal emergency response providers by making available to tribes the same tools and resources available to states during emergencies and natural disasters.** Support passage of a tribal amendment to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), which would authorize Indian tribal governments to make direct requests to the President of the United States for declarations of disasters or emergencies.
3. **Support legislation that authorizes tribal taxing authorities to participate in tax collection systems designed for the future of increasing remote sales commerce.** Support inclusion of tribal governments in any legislation that would regulate the collection of sales taxes from remote sales, such as sales made over the Internet or through catalogue orders.
4. **Improve Indian education systems by allowing tribes a meaningful role in the education of their citizens.** Support legislation that provides tribal governments direct funding to operate Elementary and Secondary Education Act title programs in public schools on Indian lands.
5. **Provide federal oversight to ensure that tribal lands are not excluded from necessary funding available to participate in a national public safety communications network.** Create a regulatory mechanism ensuring that tribal lands are not excluded if a state opts out of FirstNet's Request for Funding Proposal and decides to take an alternative approach for funding, such as through the National Telecommunications and Information Administration's (NTIA) State and Local Implementation Grant Program.
6. **Convene a working group of federal officials, Secretaries of State, and tribal leaders to address barriers to voter participation in Indian Country.** Tribal nations are the only

governments in America that are not able to play an active role in federal and state election administration for citizens under their jurisdiction. The Administration should convene tribal and state partners to explore options for intergovernmental coordination to ensure tribal citizens have access to the same options for voter participation as other Americans.

7. **Encourage strong partnerships between states and tribes to provide transportation services jointly to their respective communities.** Support the development of tribal/state partnerships to operate joint transportation projects.
8. **Develop protocols to facilitate better cooperation between tribal and state authorities providing services to Indian Country.** Provide more federal incentives and funding to encourage increased state and tribal collaboration.

*For additional information, please contact Mark Carter, NCAI Legal Fellow, at 202.466.7767 or [mcarter@ncai.org](mailto:mcarter@ncai.org).*



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## ELECTION REFORM AND TRIBAL NATIONS

Tribal nations are America's first governments, and American Indians and Alaska Natives played a key role in inspiring and establishing American democracy. Unfortunately, since that time, the rightful place of tribal citizens at the ballot box has all too often been denied. However, recent efforts to expand citizen engagement and voter participation are starting to change that. While still one of the most under-registered groups of voters in the United States, Native voters are becoming an increasingly powerful voting bloc due to heightened political participation in Indian Country.

In his 2012 victory speech, President Obama referred to long lines at the polls and emphasized—“we have to fix that.” Tribal nations welcome efforts to advance election reform. Existing challenges to expanding Native voter participation include:

- Modernizing voting infrastructure: Efforts to promote election participation, like Internet registration, mail-in ballots, and other initiatives, must be considered in light of physical infrastructure barriers on reservations (e.g., limited access to the Internet)
- Voter ID efforts: The Native Vote campaign identified six states of concern where tribal ID is not accepted at the polls and/or where photo or enhanced ID would be required to vote. Voter ID laws create logistical and financial barriers to voter participation and undermine tribal sovereignty when they place restrictions on, or do not include, tribal IDs as a valid form of voter ID.
- Election administration: An overarching challenge is the fact that (especially with stretched state and local government budgets) federal, state, and local elections are administered by external governments and not tribal governments. This often creates challenges with access to voting and has led to unequal access to voting opportunities (e.g., absence of satellite early voting sites on a number of reservations in Montana during the 2012 election)

### *Recommendations*

1. **Designate all IHS-run facilities as voter registration sites.** Work with tribally-run facilities to support those that want to offer the same services (in partnership with tribal governments and Secretaries of State).
2. **Convene a working group of federal officials, Secretaries of State, and tribal leaders to address barriers to voter participation in Indian Country.** The Administration should convene tribal and state partners to explore options for intergovernmental coordination.
3. **Support legislative efforts and explore Administrative action that can expand the freedom to vote** through:
  - a. Automatic voter registration;
  - b. Same-day voter registration;
  - c. Expanded voting options (e.g., vote-by-mail, no-excuse absentee voting, etc.); and
  - d. Modernized voter infrastructure (e.g., Internet registration, alternate forms of absentee voting, etc.).

4. **Protect the voting rights of tribal citizens** by:
  - a. Prohibiting deceptive practices where fraudulent information is distributed to prevent people from voting;
  - b. Guarding against attempts to remove legitimate voters from the voting rolls; and,
  - c. Working with state and local authorities to ensure equal access to early voting for tribal citizens.
  
5. **Support efforts to institutionalize Democracy Day** as an annual event for schools and youth organizations to focus on civic education.

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## DATA THAT SUPPORTS EFFECTIVE TRIBAL AND FEDERAL POLICYMAKING

Access to quality data and information is an essential element of tribal sovereignty and a core component of the federal government's ability to honor the trust responsibility to tribal nations. Tribal, federal, state, and local policymakers, presidential campaigns, business leaders, and individuals are increasingly using data and information management to make a variety of decisions, ranging from national security to market development to personal finance. Similarly, tribal leaders need access to quality data in order to make the best decisions for their citizens and develop effective community development initiatives. In what follows, we present recommendations on three priority areas, including: 1) Interagency Coordination to Improve Targeted Data Collection; 2) Continued Funding for Existing Data Collection; and, 3) Inclusion in National Studies.

### **INTERAGENCY COORDINATION TO IMPROVE TARGETED DATA COLLECTION.**

Given that the trust responsibility extends across the federal government, federal agencies must coordinate the development of effective data collection and reporting strategies. While the Department of the Interior (DOI) can help facilitate these processes, coordination is critical because the DOI does not have the same data and research capacity as do other federal agencies, such as the Census Bureau and the Bureau of Labor Statistics. The need for interagency coordination was clear at recent listening sessions on the *American Indian Population & Labor Force Report*, for example. At these listening sessions, DOI staff asked tribal leaders to consider affirming the use of Census Bureau data from the American Community Survey instead of demographic and labor force data that DOI would collect from tribes due to a lack of capacity at DOI to provide training to ensure consistent reporting. Following these sessions, it was evident that greater coordination between the Department of the Interior, the Census Bureau, and the Bureau of Labor Statistics could foster better quality tribal demographic and labor force data, and even contribute an important measure of 'joblessness' to broader US labor force data collection efforts.

In previous White House Tribal Nations Conferences, tribal leaders have noted the need to have access to federal data and for federal data to better represent Native communities. In ongoing tribal consultations with federal agencies, it is clear that American Indian and Alaska Native enumeration and data collection is unique in several ways from that of other populations. A few examples include the need for a measure of 'joblessness,' as well as unemployment, in tribal contexts due to the uniqueness of tribal economies; the mobility of Native people across reservation, urban, border, and suburban areas such that one-time enumeration does not capture population density; and the importance of both individual self-reporting and tribal-level data reporting. Thus, federal data collection efforts should seek to capture unique aspects of tribal nations and American Indian and Alaska Native peoples.

One way this could happen is if the President were to set an expectation regarding a periodic Indian Country Economic Survey. Current federal data about socioeconomic conditions in Indian Country are insufficient to support tribal and federal policymaking. The Census Bureau has the capacity to gather meaningful tribal input and coordinate data efforts with other agencies like the Bureau of Labor Statistics and the Department of the Interior to develop a regular survey (e.g., a supplement

to the Decennial Census) that provides data to establish economic security and prosperity for our nations.

### *Recommendations*

1. **Direct the Census Bureau to Lead a Periodic Indian Country Economic Survey.** This survey would support tribal and federal policymaking, gathering meaningful tribal input and coordinating with all relevant agencies.
2. **Establish an interagency working group on data collection and reporting** in American Indian and Alaska Native communities to more effectively coordinate data collection and support tribal, federal, and other policymakers.
3. **Host data institutes** where Native data collected by different federal agencies are brought together and made available to researchers for analyses.

### **CONTINUED FUNDING FOR EXISTING DATA COLLECTION.**

NCAI remains concerned about efforts by the House of Representatives to eliminate the US Census Bureau's American Community Survey (ACS) and reduce Bureau funding by over \$100 million. As NCAI and over 550 organizations stated to Senate Leaders Reid and McConnell in a May 16, 2012, letter:<sup>1</sup>

“The ACS is the only source of objective, consistent, and comprehensive information about the nation’s social, economic, and demographic characteristics down to the neighborhood level. The importance of high-quality, objective, and universal ACS data for public and private sector decision-makers cannot be overstated. The federal government alone allocates more than \$450 billion annually in program funds to state and local governments based in whole or in part on ACS data.<sup>2</sup> Federal law, directly or indirectly, requires all of the information gathered in the ACS (i.e. Congress requested the data directly, or created a program that relies on data for implementation, enforcement, or monitoring, for which the census or ACS are the only sources). In addition, state legislatures rely on ACS citizenship status data for redistricting.”

Continued funding for the ACS is especially important for two reasons: 1) the ACS replaced the Census long-form in the 2010 decennial Census and 2) Congress relies on the Census for the purposes of allocating funds under various federal grant programs to state and tribal governments. According to a 2001 Report to Congress by the US Census Monitoring Board<sup>3</sup> on the importance of accurate Census counts, “Inaccuracies in the census count can cause federal funds to be distributed in a way that is not fully consistent with Congressional intent...For those jurisdictions that are counted relatively poorly by the census, this translates into fewer services for families with the greatest needs.” A 1999 General Accounting Office study reported that the funding of 25 large formula grant programs represented 90 percent of the total federal grants affected by census data,

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<sup>1</sup> For the text of the full letter, please see: [www.thecensusproject.org/letters/2012-05-16\\_Senate\\_Census\\_Budget\\_Ltr-SenateLeadership-Final-Signed.pdf](http://www.thecensusproject.org/letters/2012-05-16_Senate_Census_Budget_Ltr-SenateLeadership-Final-Signed.pdf)

<sup>2</sup> Reamer, A. (July 2010). “Surveying for Dollars: The Role of the American Community Survey in the Geographic Distribution of Federal Funds.” Washington, DC: The Brookings Institution.

<sup>3</sup> For full report, please see: [govinfo.library.unt.edu/cmb/cmbp/reports/final\\_report/FinalReport.pdf](http://govinfo.library.unt.edu/cmb/cmbp/reports/final_report/FinalReport.pdf)

including: (1) Medicaid; (2) Foster Care; (3) Rehabilitation Services Basic Support; (4) Social Services Block Grant; (5) Substance Abuse Prevention and Treatment Block Grant; (6) Adoption Assistance; (7) Child Care and Development Block Grant; and (8) Vocational Education Basic Grants.

For tribal nations, Census data is essential in determining funding for vital programs such as the Indian Housing Block Grant Formula, Community Development Block Grants, the Workforce Investment Program, the Special Supplemental Nutrition Program for Women, Infants and Children, Temporary Assistance to Needy Families, and Low Income Energy Assistance. NCAI acknowledges the responsiveness of the Census Bureau to collect quality Native data through their commitment to oversampling in American Indian and Alaska Native communities as part of the enumeration and data collection efforts of the American Community Survey, but more needs to be done to ensure the reliability of those data.

Additionally, as explained in the May 2012 letter to the Senate leadership, “the Census Bureau has indicated that the House-passed funding level would force it to cancel some or all of the Economic Census...which provides core information on virtually all non-farm businesses and related data on business expenditures, commodity flows, and minority and women-owned businesses. It is a fundamental building block of Gross Domestic Product (GDP) and national income and product accounts. Abandoning plans for this important assessment of economic activity across diverse sectors would be foolhardy at a time when data is an essential component of the roadmap to economic recovery and progress and job creation.” It is critical that the federal government continue sustainable funding for existing data collection efforts such as those stewarded by the US Census Bureau.

### *Recommendations*

1. **Ensure ongoing, sustainable funding** for the American Community Survey and other key data collection efforts.
2. **Preserve sustainable funding for Census enumeration** of American Indian and Alaska Native peoples.

### **INCLUSION IN NATIONAL STUDIES**

NCAI continues to be concerned that American Indian and Alaska Native peoples exist as the “Asterisk Nation” in national studies because we are described as ‘too small to be included,’ ‘too difficult to enumerate,’ or ‘too costly to be sampled appropriately.’ One of two recent examples come from the dis-inclusion of a Native subsample in the National Children’s Study and from the FDA’s and NIH’s Population Assessment of Tobacco and Health Study. The head of the FDA described this study as “signal[ing] a major milestone in addressing one of the most significant public health burdens of the 21st century”—and one that has cultural significance to Native peoples. Tribal nations cannot afford to be dis-included in national studies because we are too small in number. Similarly, the federal government cannot afford to balk on its responsibility to provide services to Native people through the collection of quality data or to miss out on innovation that tribal nations have to offer the US population.

This invisibility is not only true in data collection on individual American Indians and Alaska Natives, but also for data on tribal governments. For example, tribal governments should be included in the Census of Governments where tribal leaders want to be included.

### *Recommendations*

1. **Include tribal governments in the Census of Governments.**
2. **Establish an interagency working group** on measurement in small populations.
3. **Ensure tribal consultation** on the design, development, and implementation of national studies with significance for American Indian and Alaska Native peoples.

*For additional information, please contact Malia Villegas, NCAI Policy Research Center Director, at 202.466.7767 or [mvillegas@ncai.org](mailto:mvillegas@ncai.org).*



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# LAW ENFORCEMENT/ DISASTER RELIEF



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## TRIBAL LAW & ORDER ACT IMPLEMENTATION

It has been over two years since passage of the Tribal Law & Order Act (TLOA), a law that takes a comprehensive approach to improving public safety on Indian reservations and reforming the entire justice system in Indian Country—from prevention to law enforcement, courts, detention, and rehabilitation. But, like other laws, the TLOA will not mean much if it is not fully implemented, and successful implementation requires significant coordination and consultation between various federal agencies and tribal governments. The passage of the TLOA created momentum for improving law enforcement on Indian reservations, and the federal government has done a great job of implementing some of the Act's key components. However, outstanding items remain. The President should take direct and immediate action to ensure full and effective implementation of all provisions of the TLOA.

### *Recommendations*

1. **Urge Congress to fully fund TLOA programs.** Effective implementation of the TLOA is contingent upon adequate federal funding for TLOA-authorized programs. The Administration should urge Congress to appropriate the full seven percent set-aside of the Office of Justice Programs identified in the President's FY2013 budget and ensure that tribal justice systems are adequately and equitably funded to provide sufficient services to meet their obligations under the TLOA in forthcoming budget years.
2. **Require the Department of Justice (DOJ) to immediately release the disposition reports mandated by the TLOA and ensure their timely delivery on an annual basis moving forward.** A centerpiece of the TLOA is Section 212, which mandates that the Attorney General submit to Congress annual "disposition reports" that contain all relevant investigation, prosecution, and declination data regarding alleged violations of federal criminal law that occurred in Indian Country and were referred for federal prosecution. Sharing of this type of information is critical to keeping tribal citizens safe. Unfortunately, the DOJ has yet to produce its first disposition report.
3. **Act on pending requests for reassumption of concurrent jurisdiction immediately.** Section 221 of the TLOA makes a significant amendment to P.L. 280 to allow tribal governments in the P.L. 280 states to request that the federal government exercise concurrent jurisdiction over reservation crimes, with consent by the Attorney General. The purpose of this change is to address long standing concerns that some states and local governments have not fully addressed reservation crime under P.L. 280. The related regulations were issued in December 2011, and a number of tribes have already submitted requests to the DOJ, but the agency has not made any formal decisions about re-assumption of concurrent jurisdiction. DOJ should act on pending requests for re-assumption of concurrent jurisdiction right away.
4. **Fulfill consultation responsibilities under TLOA.** Several provisions of the TLOA mandate consultations with tribal leaders and appropriate tribal justice officials. Federal agencies must continue to take this consultation requirement seriously and to engage in ample consultation and

collaboration with appropriate tribal leaders and law enforcement officials at each step of the implementation process.

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## TRIBAL HOMELAND SECURITY AND EMERGENCY MANAGEMENT

As sovereign governments, tribes have the same responsibilities for the public safety and security of their communities as do state and local governments. Tribes have broad emergency and first responder responsibilities, as well as extensive border responsibilities with immigration and smuggling implications—all integral aspects of homeland security. During this Administration, the Department of Homeland Security (DHS) and its component agencies, including the Federal Emergency Management Agency (FEMA), have implemented, in varying degrees, policy and programmatic changes to include tribal governments. As commendable as these efforts have been, continued funding, consultation, and inclusion efforts are required to fulfill the federal trust responsibility and ensure solid partnerships for national strategic homeland security and preparedness.

### *Recommendations*

1. **The Administration must protect the Tribal Homeland Security Program and request increased funding from the Congress.** After years of ineligibility, DHS created the Tribal Homeland Security Grant Program for which Congress authorized an average of less than \$10 million per year for all eligible tribes. The Administration needs to request increased levels of funding for tribal government programs that protect vital infrastructure which, if targeted, would create extensive disruption to the power grid and fuel pipelines.
2. **The DHS and FEMA should continue agency-wide implementation of its American Indian and Alaska Native Tribal Government Policy and create permanent offices of tribal affairs positions within each component.** FEMA-tribal relations are at a high point thanks to laudable work of the current FEMA Administrator. Due to this positive relationship, significant progress has been made in tribal preparedness, disaster response and mitigation programs, and infrastructure development. These improvements can be institutionalized within the Department by creating permanent offices of tribal affairs.
3. **The DHS should ensure tribal inclusion on advisory boards and task forces which focus on interoperability and communication and seek assurances from other agencies that tribal government considerations and representation are part of national strategies.** Tribal community public safety continues to suffer from lack of integrated, multi-agency focus on improving broadband and telecommunication deficiencies. Without adequate communication infrastructure, tribal communities remain at risk. Having tribal representation across the DHS will help ensure tribal priority inclusion.
4. **The DHS should recognize tribal government identification as valid and secure documentation and, as part of the federal trust responsibility, assist tribes with adequate resources to develop secure tribal identification.** Tribes will not be able to develop sophisticated IDs that meet Western Hemisphere Travel Initiative and Real ID requirements if nothing is done to increase support to tribal governments desiring to comply and join this

*For further background materials see: <http://tinyurl.com/TNS2012>  
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effort. The high cost of implementation and compliance has become an unfunded mandate to the tribes.

5. If the Stafford Act amendments do not pass in the Lame Duck session, **FEMA should reiterate its strong support for Congressional action to amend the Stafford Disaster Assistance Act** to authorize tribal leaders to directly seek a presidential disaster declaration.
6. **Direct DHS and DOJ to collaborate with tribal leaders and officials to address drug cartel activity and operations on tribal lands.** Some tribal communities face significant challenges with drug cartel activity that requires a coordinated interagency and intergovernmental approach, including Customs and Border Protection, one of DHS's largest and most complex components.

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# HEALTHCARE/ EDUCATION/YOUTH



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## HEALTH

The health and wellness of tribal communities depends on a network of health education, service providers, prevention coordination, and tribally-driven initiatives. To date, the Administration has worked collectively with tribal leaders to identify barriers and opportunities, develop tribal consensus, and implement changes. Despite these efforts to improve the health of tribal citizens, American Indians and Alaska Natives continue to experience the greatest health disparities and there is much more work to do.

Tribal citizens encounter several barriers to adequate health care, including a lack of access to specialized care, long distances to Indian Health Service (IHS) and/or tribal facilities, and culturally incompetent care. Collectively, tribal communities suffer from higher rates of obesity and diabetes. Native women experience infant mortality rates nearly 50% higher than their white counterparts. In addition, tribal communities struggle with the same social ills that many larger communities battle, including alcohol and substance abuse and suicide. Of these, American Indians and Alaska Natives report higher monthly binge drinking episodes and alcohol consumption per episode than any other racial group. These factors and others result in the highest drug-induced mortality among American Indian and Alaska Native women, and suicide rates that are more than twice that of blacks, Asian Pacific Islanders, and Hispanics.<sup>1</sup>

This Administration has strengthened its partnership with Native nations to defend communities against such statistics. Most importantly, the Administration successfully passed the Patient Protection and Affordable Care Act (ACA). This law included permanent reauthorization of the Indian Health Care Improvement Act, which brought the entire IHS system, including tribal and urban programs and clinics, into the new system of health care delivery. Successful and seamless implementation of the ACA will increase health care access for American Indians and Alaska Natives, support the IHS system of care, broaden services provided in rural communities, and strengthen an integral network of providers. In addition, the Administration has proposed and supported improvements in tribal prevention. These programs are designed to be tribally driven, culturally sensitive, and locally provided. Although some of these programs have proven to be hugely successful, replication and expansion is still necessary.

In order to build on this work, NCAI offers the following priorities to improve the health of American Indians and Alaska Natives.

### *Recommendations*

- 1. Ensure the seamless implementation of key ACA provisions in Indian Country through tribal consultation.**
- 2. Continue to support and request increased funding for the Indian Health Service.**

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<sup>1</sup> Center for Disease Control and Prevention. "CDC Health Disparities and Inequalities Report – United States, 2011." *Morbidity and Mortality Weekly Report*. January 14, 2011.

3. **Promote successful prevention and treatment programs**, such as the Methamphetamine and Suicide Prevention Initiative, the Domestic Violence Prevention Initiative, and the Behavioral Health – Tribal Prevention Grant.
4. **Support legislation to reauthorize the Special Diabetes Program Initiative.**

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## PROMOTING EXCELLENCE IN NATIVE EDUCATION

Native education is in a state of emergency. The federal government needs to take immediate action to ensure that Native students grow into engaged, productive citizens of both their tribes and the nation as a whole. While the previous Administration made some good faith efforts aimed at addressing the persistent lack of progress in Native education, the 2011 National Indian Education Study demonstrates that much work still needs to be done. In reading and math, American Indian and Alaska Native students continue to score significantly lower than their peers in fourth and eighth grades.<sup>i</sup> The 2011 study found that the mathematics score disparity among American Indian and Alaska Native students and their non-Native counterparts is *larger* than in 2005, while average reading scores have not improved since 2005.<sup>ii</sup> The crisis of Indian education is perhaps most apparent in the Native high school dropout rate, which is one of the highest in the country.<sup>iii</sup>

Approximately 93% of Native children are currently enrolled in public schools, both urban and rural. The remaining 7% attend schools within the Bureau of Indian Education (BIE) system.<sup>iv</sup> Regardless of where they attend school, Native students are not receiving an education steeped in their language or culture. They are also very unlikely to receive instruction or be taught in a classroom/school climate that is appropriate for them. Tribes, Native parents, and communities are best suited to influence these critical factors for academic success. Effectively reaching all Native students requires a concentrated effort from multiple partners: the federal government, tribes, and state and local education agencies.

### *Recommendations*

1. **Support passage of the Native CLASS Act.** Indian Country needs strong, concerted, and sustained support to pass the Native Culture, Language, and Access for Success in Schools Act (CLASS) in Congress. While not a fix-all, the Native CLASS Act addresses many of the systemic problems in Native education and includes the following tribal priorities:
  - Strengthen tribal control of education: Tribes should be granted the authority and funds to build capacity for their education departments in the same ways that are provided to states and districts. The Native CLASS Act authorizes tribes to operate ESEA title programs in schools that are located on Indian lands and serve predominantly Native students.
  - Preserve and revitalize Native languages: The survival of Native languages and cultures is essential to the success of our communities and ways of life. Because immersion is largely recognized as the best way to learn a language, the Native CLASS Act establishes a grant program to develop and maintain Native language immersion programs.
  - Provide tribes with access to tribal member student records: The Native CLASS Act expressly grants tribes and tribal education agencies (TEAs) access to tribal student academic records in the same way that local educational agencies have access. Tribes

and their education agencies are in the best position to track and coordinate Native student data.

- Encourage tribal/state partnership: The Native CLASS Act requires states and local educational agencies to consult with tribes when developing applications for various ESEA title programs.
2. **Reissue the Executive Order on Tribal Colleges and Universities.** Executive Order 13592, which established the White House Initiative on American Indian and Alaska Native Education, was a step in the right direction for Native education. However, tribal colleges and universities (TCUs) previously had a stand-alone Executive Order and their own initiative, which Executive Order 13592 rescinded and folded into a single Executive Order on broader Native education. Tribal leaders and Native educators did not request this change, and the net result has been less effort focused on strengthening TCUs. This Administration should reissue the separate Executive Order and Initiative on TCUs, sufficiently fund both programs so they may meet their mandates, and direct that the two Initiatives work together. Current Executive Orders on African American education and historically black colleges and universities already do this for other students. American Indian and Alaska Native students deserve no less.
  3. **Reaffirm and acknowledge the Department of Education’s federal trust responsibility for American Indian and Alaska Native students.** The President issued his Executive Memorandum regarding implementation of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, in November 2009. The Department of Education has yet to release its consultation policy. As a result, tribes are still fighting for a seat at the table—both with the Department and states—in developing meaningful education policy for Native students. The Department must ensure that tribes are key stakeholders and that it consults with tribes prior to the development of regulations that will affect how Native students and schools are funded.

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<sup>i</sup> *National Indian Education Study 2011* (NCES 2012-466), at 3. National Center for Education Statistics, Institute of Education Sciences, United States Department of Education.

<sup>ii</sup> *National Indian Education Study 2011* (NCES 2012-466), at 2. National Center for Education Statistics, Institute of Education Sciences, United States Department of Education.

<sup>iii</sup> *Trends in High School Dropout and Completion Rates in the United States, 1972-2009* (IES 2012-006), at 22. National Center for Education Statistics, Institute of Education Sciences, United States Department of Education.

<sup>iv</sup> Status and trends in the education of American Indians and Alaska Natives: 2008 (NCES 2008-084). Washington, DC: Government Printing Office.



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## INVESTING IN OUR YOUTH

For hundreds of years, tribal nations have reflected on their decisions through the lens of its impact on the seventh generation. This perspective on policy making for the benefit of our children, and our children's children, has led tribal leaders to increasingly urge the federal government to enact policies that focus on youth wellness and early intervention. Indian Country is young— about 32 percent of the Natives population is under 18, as compared to 26 percent for the entire United States. However, past and ongoing efforts tend to concentrate solely on the symptoms of poverty and lack of opportunity and, as a result, fail to harness the inherent potential of Native children and teenagers. Young people have the capacity to create and lead positive community change, and should be given the tools and resources to do so.

Native nations need support for a tribal youth-led wellness initiative that addresses safety, education, health care, and job skill development, with coordination across the systems and departments through which these services are delivered. Programs must be developed that cut across agencies to foster healthy lifestyles, safe and supportive environments, successful students, and stable communities.

Native youth are undoubtedly the future of tribal nations, and ongoing investments are required to ensure that they grow into healthy young adults and become the next generation of tribal leaders, community members, and business leaders. Tribal governments know better than anyone else the issues their communities face, and the Administration should provide resources to support tribes in developing their own solutions.

### RECOMMENDATIONS

#### 1. Support early and routine school-based assessments

Schools should require regular comprehensive assessments for students on everything from mental health and dental needs to drug abuse, victimization, and educational attainment. These types of assessments will not only help parents and professionals detect the need for intervention and enhance the delivery of any necessary services, but they will also help prevent juvenile delinquency by addressing children's health, social, educational, and other needs before they manifest themselves in the form of delinquent behavior.

#### 2. Reform juvenile justice

There is a growing consensus among tribal leaders and the nation at large that while placing juvenile offenders into detention facilities may be legitimized by federal, state, and tribal law, it is not necessarily in the long-term interests of children or their communities. Detention is too often a dumping ground for youth who should be served by other public systems, kept in school with their families, and be provided with mentoring programs that focus on oversight, curfews, homework, and healthy social activities. This is especially the case for non-violent, first-time, or low-level offenders who typically pose little threat to public safety. Effective implementation of alternatives to incarceration in Indian Country will require

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funding and technical assistance for new, culturally relevant programs that will meet local needs and promote tribal self-determination.

**3. Invest in school-based youth wellness activities**

Tribes need dedicated funding to effectively address tribal youth wellness and juvenile justice reform. A new grant program could support several project phases (e.g., stage one for project development, stage two for implementation, stage three for evaluation, etc.). In the long run, however, this type of short-term grant program will not suffice – tribes will need a permanent funding stream to support youth wellness activities. Currently, most of the funding for these kinds of activities comes from either health-based or law enforcement-based programs. Yet, schools are the focal point for a large part of the type of reform that we are suggesting. As such, more educational resources should be allocated toward programs and initiatives that support tribal youth wellness.

**4. Support early financial capability training**

To build a strong foundation for future economic development, many tribal nations have developed financial capability training programs focused on building skills for future generations. At the national level, the Tribal Exchange Stock Market Game is an excellent example of a program that promotes financial literacy. A recurring 10-week program for American Indian and Alaska Native students in grades 4 through 12, it teaches valuable financial life skills and team building while strengthening inter-tribal connections. Tribes need more support and resources to implement similar financial literacy programs. This could be pursued by ensuring tribes are included in existing federal financial capability programs and that tribal innovations are highlighted as models for the rest of the country.

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# **ECONOMIC DEVELOPMENT**

## **HOUSING**

### **INFRASTRUCTURE**



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## WORKFORCE DEVELOPMENT

Tribal governments and businesses continue to face the severe effects that the nation's recent economic downturn has had on employment opportunities throughout the nation. For generations, Native peoples have faced destructive economic conditions that are more pronounced than those of the Great Recession. Today, while the national unemployment rate drops below eight percent, Native communities continue to wrestle with the far-reaching impacts of unemployment rates that have well-exceeded ten percent for generations. Tribal governments have successfully created jobs both in government and the private sector, but ensuring job growth keeps pace with the growing Native youth population is an ongoing challenge.

Job growth in Indian Country is dependent on consistent, dependable legislative and regulatory policies that support economic development and enable tribes to gain access to capital, move quickly to utilize and capitalize on available resources, and maintain parity between tribal governments and state and local governments. The Administration should focus on increasing job training and retraining initiatives for tribal citizens to learn technical skills that make them competitive applicants for jobs in fields such as health, business, technology, and green- and other energy-related jobs.

Workforce development opportunities are particularly important because Indian Country has one of the youngest populations in the nation, with 42 percent of Native people under the age of 25. Tribal colleges and universities (TCUs) are key partners to advance workforce development and provide training for thousands of Native people and other rural Americans. Including TCUs in federal workforce and Department of Energy EERE education and training programs, as well as reinstating the tribal set-aside in the YouthBuild program, would create significant opportunities for workforce development and job creation in Indian Country.

### *Recommendations*

- 1) **Include tribal leaders on any Secretary-level Advisory Council in the Department of Labor, as well as on federal, state, and local workforce investment boards.**
- 2) **Include tribal provisions for technical training in all federal agency education and job training programs.**
- 3) **Emphasize the development of technical expertise.** Programs offered by federal agencies and available to tribal schools and tribal members should emphasize technology-specific curricula and training.
- 4) **Provide access to job training initiatives that will promote technical skill development for tribal members to work in emerging industries.** For example, expand the Energy Education & Workforce Development programs offered by the Department of Energy's Office of Energy Efficiency and Renewable Energy to include tribal governments, tribal colleges and

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universities, and tribal businesses in its education, training, and technical assistance programs that are a critical part of the national effort to create green jobs.

- 5) **Reauthorize the Native American Program in the Workforce Investment Act.** Include the following tribal priorities:
  - a. Restore the 10% rural and tribal set-aside for Youth Build; and
  - b. Increase funding to meet the economic and financial barriers facing Native communities.
  
- 6) **Partner with federal agencies, universities, tribal colleges, and community and vocational colleges to:**
  - a. Invest in developmental education and academic bridge programs, so that tribal members can succeed in college-level courses and qualify for federal workforce programs; and
  - b. Provide incentives—including scholarships, loan forgiveness programs, and educational support—for professionals working in highly underserved areas.
  
- 7) **Direct the Department of Labor, the Department of the Interior, and the Office of Management and Budget to produce the statutorily required *American Indian Population and Labor Force* report.** Include new provisions that gather specific workforce and occupational data and measures job market needs for Indian Country.

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## INTERNATIONAL BUSINESS OPPORTUNITIES<sup>1</sup>

Now is an opportune time for tribal businesses to expand into new international markets. There has been an increase in the availability of financial and non-financial assistance for both minority businesses and small to mid-size enterprises (SMEs) looking to grow internationally. The Small Business Administration (SBA) notes that small business exporters currently sell billions of dollars worth of goods and services overseas every year. SBA statistics also show that 70 percent of all exporters have fewer than 20 employees. Moreover, the Minority Business Development Agency states that minority owned firms are four times more likely to export internationally in comparison to non-minority owned firms, regardless of size. These conditions offer a prime opportunity for tribal businesses to expand into new markets. Additionally, the upcoming World Conference on Indigenous Peoples scheduled for September 2014 in New York City will provide another avenue for tribes to explore international trade with and among indigenous peoples of the world.

Although small tribal businesses have seen significant domestic gains recently, participation in the global marketplace has been minimal. Tribes face many unique challenges in entering the international export market. These challenges include difficulty in accessing capital, receiving proper training, and the almost total lack of federal programs that specifically cater to the needs of potential exporting tribal nations or members. Tribes have demonstrated that when they possess the proper tools, they can successfully develop businesses in Indian Country and for the domestic market. Additionally, tribal 8(a) businesses have had success in providing goods and services to U.S. government entities overseas. If federal agency programs create a focus on building the technical and financial capacity required for tribes to enter and succeed in the international export market, then Indian Country will go even further in living up to its revenue-generating potential through SMEs.

### **CAPACITY BUILDING: DEPARTMENT OF COMMERCE**

The U.S. Department of Commerce has many programs to help prepare small businesses for international export. Under the umbrella of the SBA, Small Business Development Centers (SBDCs) offer low-cost advice and training to help individuals develop their businesses and provide a variety of focus areas, including export assistance. Even more specifically under the SBA, US Export Assistance Centers (USEACs) are dedicated entirely to assisting SMEs with their international exporting needs (see [www.export.gov](http://www.export.gov)). Although these non-financial assistance programs are great resources, there are no tribal-specific programs. USEACs are geographically distant from much of Indian Country, and neither the SBDCs nor USEACs maintain tribal points-of-contact. A serious program to prepare tribal businesses for international export operations needs both geographic proximity and programs designed to educate and assist the tribal business owner.

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<sup>1</sup> This paper is based on NCAP's "International Markets & Tribal Enterprises: A Guide to Entering the International Market." Copies of the full report can be downloaded at [NCAI.org](http://NCAI.org)

Federal programs also offer financial assistance to SMEs interested in exporting. Unlike the SBA 8(a) program, which provides non-financial assistance to Native businesses, the SBA also has the 7(a) loan program that provides financial aid to businesses with special requirements, such as those that export to foreign countries. The U.S. Department of Treasury works with Native Community Development Financial Institutions (CDFIs) to provide low-interest financing to tribal businesses. Native CDFIs are able to work together to provide the required capital for loans in the millions of dollars to tribal business, depending on size and needs, where an individual CDFI could not. As with USDC's non-financial programs, these loan programs either do not specifically address tribal needs or, in the case of Native CDFIs, have not received an adequate amount of resources.

### *Recommendations*

1. **Develop technical advice and training programs** that specifically address the unique challenges of international exporting from Indian Country.
2. **Create SBDCs and USEACs in areas and with programs and materials that will better serve Indian Country.**
3. **Offer modern (web-based) and more traditional (phone-and-paper-based) tribal points of contacts**, specifically for tribes located great distances from SBDCs and USEACs.
4. **Provide more resources to Native CDFIs** to help develop them as export financing hubs for tribal SMEs.
5. **Include representatives from tribes and ANCSA corporations in trade missions with the Secretary of Commerce and other Department of Commerce Officials and participate in Department of Commerce Export Trade events and networks.**

### **CAPACITY BUILDING: DEPARTMENT OF AGRICULTURE**

The U.S. Department of Agriculture has special criteria with which businesses must comply before agricultural products can be exported. Due to these special requirements, the USDA's Foreign Agricultural Service (FAS) offers funding to State Regional Trading Groups (SRTGs), which in turn educate U.S. businesses on the fundamentals of exporting, assist in identifying foreign opportunities, and make introductions between U.S. sellers and potential foreign distributors. Similar to SRTGs' broader approach, the American Indian Foods (AIF) export program, a recent joint initiative by the Intertribal Agricultural Council (IAC) and the FAS, educates tribal businesses on how to export successfully and matches tribal producers with foreign buyers (see [www.americanindianfoods.com](http://www.americanindianfoods.com)). Over the past 12 years, the IAC, assisted by the USDA Market Access Program (MAP), has helped over 30 U.S. tribal food companies move Native food products into the international export market—resulting in export sales for some of the companies exceeding \$2 million dollars per year. MAP funds are used primarily to participate in trade shows in Europe, Asia, Australia, Canada, Mexico, and the Middle East. The AIF program has greatly contributed to the export success of many tribal businesses, but as a result of inadequate funding, has not made a satisfactorily far-reaching impact in Indian Country.

The FAS also offers finance programs specifically for exporters of agricultural goods and services. These programs, such as the Export Credit Guarantee Program, the Facility Guarantee Program, and the Dairy Export Incentive Program, are financial tools that should be more readily available to potential exporting tribal businesses. Additionally, the FAS should provide technical assistance specifically targeted toward showing those same businesses how to utilize these financial tools. The FAS also targets a portion of loan funds for Minority Farmers and Ranchers Loans (MFRLs) for small and startup farmers and ranchers. While MFRLs are available to all minority farmers and ranchers, more specific loans should be made available to tribal members, who face unique challenges in readying their products for the international market.

### *Recommendations*

1. **Provide resources and expertise for USDA's State Regional Trading Groups** to develop tribal specific training.
2. **Increase USDA's Foreign Agriculture Service discretionary funding to the Intertribal Agriculture Council and its American Indian Foods export program.**
3. **Make the Foreign Agriculture Service's finance programs more readily available to potential exporting tribal businesses.**
4. **Include representatives from tribes and ANCSA corporations in trade missions with the Secretary of Agriculture and other USDA Officials, and encourage their participation in export trade events and networks.**

To meet the export objectives of the Obama Administration and Indian Country, NCAI supports an intergovernmental export business conference for tribes, tribal businesses, and tribal business owners as early as March 2013. In addition to focusing on programs and initiatives that could assist tribal businesses interested in international trade, one outcome of this conference should be the creation of an economic development and international trade forum for the United States to offer as part of the World Conference on Indigenous Peoples in 2014.

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## AGRIBUSINESS

Agriculture is of growing importance to American Indian economies, with an 88 percent increase in the number of American Indian farmers between the 2002 and 2007. According to the 2007 Census of Agriculture, annual Indian agriculture production exceeded \$3 billion in crop and livestock sales. Indian lands constitute one of the last remaining areas in the nation with sizeable arable and grazing lands. Enhanced federal support for tribal agriculture, ranching, natural resource management, and other activities through USDA and the Department of Commerce programs would generate significant benefits for tribes, rural communities, and the nation. Such support would also promote economic development and job growth, along with community revitalization, self-sufficiency, youth engagement, locally grown produce, healthier eating, and active lifestyles.

### **AGENCY-WIDE TRIBAL AGRICULTURE FOCAL POINT IN USDA**

A USDA-based office coordinating all federal agency programs supporting tribal agriculture would more efficiently achieve economic growth in tribal agriculture. Such an effort would include the permanent establishment of an Indian agriculture office; the provision of start-up grants, loans, and technical assistance to tribes and tribal farmers, fisheries, and related businesses; programs to improve irrigation and infrastructure; and assistance in establishing value-added agriculture businesses and export operations for tribes. Finally, the inconsistencies in the interpretation and application of the leasing regulations across Bureau of Indian Affairs regions result in delays, increased costs, and lost opportunities.

#### ***Recommendations***

1. **Establish a single office based in USDA for tribal agriculture.** This office would serve as the primary point of contact for all federal agriculture programs, regardless of whether they are programs operated by the USDA, the Department of the Interior, the Department of Commerce, or another federal agency.
2. **Continue and expand support for the Intertribal Agriculture Council to maintain its current outreach and education programs.** Also expand those programs to provide education, technical assistance, and export guidance to tribal agriculture operations.
3. **Update, apply, and interpret leasing and other regulations and policies consistently across the nation.**
4. **Provide additional training on the federal programs that are available for food and agriculture and the application processes for each.** Face-to-face training programs may be required in many instances to ensure that applications are submitted for grant and loan funding, especially with family-operated farms and ranches.

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5. **Require a re-examination of the Indian Land Consolidation Act rules** that create problems due to the determination that permanent improvements on trust land are non-trust property.
6. **Create new farm/farmer programs specific to tribes and tribal members newly engaged in agriculture as a result of payments from recent tribal settlements.**

### **PARITY IN PROGRAMS AFFECTING TRIBAL AGRICULTURE**

An independent study performed under the National Indian Forest Resources Management Act found that tribal forests, including grasslands, receive only one-third of the funding on a per-acre basis as do national forests, and that at least 1 million acres of tribal forests are in dire need of forest management. Because two of the principal programs in the Cooperative Forest Assistance Act (CFAA)—the Forest Legacy Program and the Forest Stewardship Program—provide states (but not tribes) with the discretion to determine whether tribes participate in these programs, tribes receive virtually no funding from either program.

In another area, rural extension programs address critical needs faced by rural tribal communities. These programs revitalize rural communities, enhance local agricultural production, and involve youth in healthy activities and career opportunities. However, while USDA's extension program exists in over 97 percent of America's counties, the Federally Recognized Tribal Extension Program (FRTEP) currently consists of 30 extension agents on Indian reservations and serves less than 4 percent of reservation residents.

#### ***Recommendations***

1. **Ensure equitable tribal participation in the U.S. Forest Service Program.**
2. **Expand the Federally Recognized Tribal Extension Program (FRTEP) from the current 30 extension agents on Indian reservations to at least 100 extension agents over the next four years.** To facilitate such expansion, reference the Congressional mandate for research and extension services in every county in the nation.

### **TECHNICAL ASSISTANCE PROGRAMS, FINANCIAL TRAINING, AND NATIVE CDFI SUPPORT**

Farm management is often cited as the factor most critical to successfully run a farm business. Two of the fundamental questions regarding helping Native farmers and ranchers succeed and expand are: (1) what can be done to improve the farm management capabilities of Indian producers?; and (2) how can the capacity of those working with Indian producers be expanded so they can better serve Native farmers and ranchers? Hands-on, intensive training is needed to help Native producers learn how to farm, become better farm managers, and prosper on Indian lands. More educators and more farm management training for these educators would make a difference. Both the Federally Recognized Tribes Extension Program and the 1994 Land-Grant Colleges and Universities provide some resources to help Native producers learn about and improve their farm management abilities, but these resources are spread woefully thin across Indian Country.

#### ***Recommendations***

1. **Support technical assistance programs that build the capacity of tribal staff and members in food and agricultural business.**

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2. **Increase the number of Federally Recognized Tribes Extension Program (FRTEP) educators and provide additional training** to increase their capacity to help producers learn more about farm financial management.
3. **Utilize the Financial Literacy training offered by Native CDFIs and create programs that rely more on Native CDFI resources** to provide funding, outreach, and financial training program in Indian Country.
4. **Make available on reservations the farm management and benchmarking associations' in-depth, multi-year business assistance program.**
5. **Engage some of the best consultants** to help both beginning and established Indian producers develop business plans and use them in their businesses.
6. **Develop farm management training resources** that can be used by producers, educators, and 1994 colleges and universities.
7. **Develop programs to provide legal technical assistance, financial education, and strategic business planning on the intergenerational transfer of assets in Indian Country** through wills and the probate process.

## **TRADITIONAL NATIVE FOOD AND RELATED NUTRITION AND DISTRIBUTION PROGRAMS**

Before processed foods entered the diets of American Indians and Alaska Natives, tribal communities relied on traditional hunting, fishing, gathering, and agriculture. Because traditional foods support better nutrition, fewer chronic health problems, and cultural sustainability, many tribal leaders have voiced their support of a return to diets that include traditional hunting, fishing, gathering, and agriculture foods. Establishing and supporting local food markets would benefit the local economy, encourage the production and consumption of tribal traditional foods, and offset additional costs for the delivery of fresh foods to rural tribal communities. Additionally, the administration of the Food Distribution Program on Indian Reservations continues to create employment opportunities for tribal members.

### ***Recommendations***

1. **Create effective guidance and support programs** to promote traditional Native food sources and related nutrition and tribal distribution programs.
2. **Reform the Food Distribution Program on Indian Reservations (FDPIR) program** to permanently include traditional Native foods and eliminate asset tests that do not align with requirements under the Supplemental Nutrition Assistance Program (SNAP).
3. **Implement labeling standards for American Indian and Alaska Native grown or raised products.**
4. **Implement programs to support traditional Native food production.**
5. **Determine the appropriate agencies and offices with authority to serve traditional foods from local sources in Native institutions.**

## **ACCESS TO CAPITAL, CREDIT AND OTHER FINANCIAL PRODUCTS/TAX ISSUES**

Indian Country faces different challenges in this area than do other populations. Agriculture credit is a big issue for individual Native farmers and ranchers who need access to capital and credit to run their operations and to finance fractionated land consolidation. It has been 15 years since the initial Native American Lending Study was done under the Community Development Financial Institutions (CDFI) program in the Treasury Department.

*For further background materials see: <http://tinyurl.com/TNS2012>  
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### ***Recommendations***

1. **Access to capital, credit, and other financial products needs to be defined in terms of Indian Country.**
2. **Update the Native American Lending Study and include food and agriculture credit needs,** as well as an evaluation of the Native CDFIs and their role in supporting credit to value-added Native food and agriculture related businesses.
3. **Support efforts to expand financial education programs through food, agriculture, and capital/credit programs** to provide Native people in unbanked or under-banked communities an opportunity to build their financial skills, which would work to reduce one of the barriers to business development.
4. **Create more funding opportunities** that support funding through local resources, like CDFIs.

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## **BROADBAND: DEVELOPING A DIGITAL HIGHWAY FOR INDIAN COUNTRY**

The United States continues to be the world's leader in wireless broadband technology and innovation. The development of powerful devices such as smartphones and tablets has steadily increased the need for finite spectrum resources. According to the Federal Communications Commission, \$8 trillion are exchanged over the Internet each year, and the United States captures 30% of all Internet revenue worldwide and more than 40% of net income. While the nation targets funding for wireless and wireline broadband build out, Indian Country needs broadband capacity building and technical training.

The federal government should conduct a thorough and updated analysis of broadband availability on tribal lands in order to increase access, facilitate the development of partnerships, increase targeted funding efforts, and establish a foundation for tribes to become technology innovators. Tribes also need resources to develop their STEM (Science, Technology, Engineering, and Math) workforces. Investment in STEM education and career pathways will spur economic growth for both Indian Country and the nation as a whole.

### **CREATE A GAP ASSESSMENT OF BROADBAND IN INDIAN COUNTRY**

Data deficiencies impair the ability of tribal, federal, state, and local policymakers to identify and respond effectively to the broadband needs of tribal governments and their citizens. The Administration should make it a priority to improve collaboration with tribes in this area and to obtain and share data across agencies. Though the National Telecommunications and Information Administration (NTIA) and the Federal Communications Commission (FCC) have collected some of this data, tribes and telecommunications providers alike have questioned its accuracy.

#### *Recommendations*

1. **Evaluate the accuracy of the Native Nations Broadband Map** by working with tribal governments to assess Internet and telephone availability on tribal lands.
2. **Create an interagency working group** to work with tribal governments to develop protocol and agreements for data sharing and collection (include agencies such as NTIA, Census, USDA Rural Utilities Service, the Department of the Interior, FCC, and the Department of Homeland Security).
3. **Secure data sources and make these available to tribes** for use in grant and loan applications related to telecommunications projects.

### **DETERMINE THE BARRIERS TO BROADBAND DEPLOYMENT IN INDIAN COUNTRY**

While data deficiencies are a key barrier to developing broadband infrastructure on tribal lands, a host of other issues can also complicate the process. In response to the challenges that tribes have encountered with telecommunications providers serving tribal lands, the FCC recently developed the *Tribal Government Engagement Obligation Provisions*. These new provisions require that eligible

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telecommunications carriers (ETCs) receiving Universal Service Funds (USF) who are currently providing, or seeking to provide, services on tribal lands must meaningfully engage tribal governments. ETCs will be required to submit to the FCC and the appropriate tribal government officials an annual certification and summary of their compliance with these provisions. These initial certifications are due to the FCC on July 1, 2013, and could provide a basis for development of “best practices” models. These reports have the potential of highlighting successes in deployment and sustainability planning; developing a needs assessment; and identifying processes for right of way, land use permitting, facilities siting, environmental and cultural preservation review.

### *Recommendations*

1. **Develop a “best practices” model** in coordination with agencies that oversee and/or fund broadband projects in Indian Country.
2. **Convene summits with federal agencies, telecommunications industry entities, state governments, and tribal governments** to facilitate the development of partnerships and identify and remedy barriers.

### **FOCUS ON SCIENCE AND ENGINEERING PATHWAYS IN INDIAN COUNTRY**

According to U.S. Bureau of Labor Statistics labor force projections, STEM jobs are expected to grow 19% between 2008 and 2018, which is almost double that of all other occupations. Although these projections are nationwide estimates, Indian Country could contribute immensely to this vital workforce if given the opportunity. Tribal perspectives in STEM-related fields could also further contribute to the development of sound policies related to renewable energies, telecommunications, education, and other areas.

### *Recommendation*

1. **Develop mentorship and academic bridge programs** with the Departments of Agriculture, Commerce, and Labor, the National Institute of Standards and Technology, and other federal agencies with programs that include STEM related fields.

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## HOUSING

Housing infrastructure is essential to communities in Indian Country, and significant housing needs still remain. According to U.S. Census Bureau's 2006-2010 American Community Survey, of the approximately 142,000 housing units in Indian Country, 8.6 percent lack complete plumbing facilities; 7.5 percent lack kitchen facilities; and 18.9 percent lack telephone service (compared to national rates of less than one percent). Impediments to further housing development in tribal communities include a lack of private investment, low functioning housing markets, and poverty. Almost three quarters (73.3 percent) of housing in Indian Country is not financed by a traditional mortgage.

### *Recommendations*

1. **Elevate the position of Deputy Assistant Secretary for Native American Programs to Assistant Secretary for Indian Housing and Community Development.** The Deputy Assistant Secretary for Native American Programs, U.S. Department of Housing and Urban Development (HUD) administers the bulk of federal housing programs for American Indians, Alaska Natives, and Native Hawaiians. The Secretary of HUD operates through the Office of Native American Programs (ONAP) to facilitate the federal trust responsibility to improve the housing and socioeconomic conditions of Native peoples. Although progress has been made, Indian housing is still far more substandard than housing in the rest of the country.
2. **Conduct a regular national assessment of Indian housing that identifies critical gaps.** Currently HUD is conducting a study, "*Assessment of Native American, Alaska Native, and Native Hawaiian Housing Needs*," that has raised concerns among tribal leaders and Native housing professionals. HUD should work with tribes—and other federal agencies—to develop a long-range plan that includes establishing a comprehensive housing data system to guide effective housing policymaking.
3. **HUD should establish a HUD Tribal Advisory Committee.** The Advisory Committee would be made up of tribal leaders and would provide advice to the Secretary on issues related to Indian housing, infrastructure policies, and budget.
4. **Establish a Tribal Infrastructure Task Force.** HUD should partner with the Environmental Protection Agency, the Department of Agriculture, and the Indian Health Service to more effectively coordinate infrastructure efforts aimed at addressing water and sanitation facilities needs, particularly with regard to how projects are prioritized.
5. **Support the tribal priorities within the upcoming reauthorization of the Native American Housing and Self-Determination Act of 2008.**
6. **Continue to coordinate and consult with tribes regarding the implementation of the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act of 2012.**

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## TRANSPORTATION

The Tribal Transportation Program (TTP) comprises over 140,000 miles of public roads with multiple owners, including the Bureau of Indian Affairs (BIA), Indian tribes, states, and counties. Indian Reservation Roads (IRR) are the most underdeveloped road network in the nation<sup>1</sup>—yet it is the primary transportation system for all residents of and visitors to American Indian and Alaska Native communities. Over 66 percent of the system is unimproved earth and gravel, and approximately 24 percent of TTP bridges are classified as deficient. These conditions make it very difficult for residents of tribal communities to travel to hospitals, stores, schools, and employment centers.<sup>2</sup>

As far back as 2003, the BIA formally acknowledged in a report that at least \$120 million per year was needed to maintain BIA-owned roads and bridges to an adequate standard.<sup>3</sup> This same BIA report concluded that \$50 million per year was needed for bridge rehabilitation and replacement. These costs have risen sharply in the past five years due to high construction cost inflation, but the Department of the Interior (DOI) has requested only \$25 to \$26 million annually in DOI appropriations for the BIA Road Maintenance Program.

Funding for the TTP and other tribal transportation programs was recently reauthorized in the Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) in June 2012. This highway reauthorization law will operate for two years and reorganized all of the tribal transportation programs. It also authorized the appropriation of hundreds of billions of dollars in transportation funding for state, federal, and tribal transportation and transit programs.

Transportation infrastructure is vital to tribal economies, education systems, health care, and social service programs. Tribal communities are threatened by unsafe and often inaccessible roads, bridges, and ferries. Native peoples suffer injury and death by driving and walking along reservation roadways at rates far above the national average. Data shows 5,962 fatal motor vehicle crashes were reported on reservation roads between 1975 and 2002, with 7,093 lives lost. This rate is increasing—up nearly 25 percent to over 284 lives lost per year in the last five years of study. While the number of fatal crashes in the nation during the study period declined 2.2 percent, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5 percent. American Indians and Alaska Natives also have the highest rates of pedestrian injury and death per capita of any racial or ethnic group in the United States. These statistics are shocking and demand major changes in federal transportation safety programs serving Indian Country.

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<sup>1</sup> Bureau of Indian Affairs, *Transportation Serving Native American Lands: TEA-21 Reauthorization Resource Paper* (2003).

<sup>2</sup> Statement of John Baxtor, Administrator of Federal Lands, FHWA, U.S. DOT, *Hearing on Transportation issues in Indian Country Before Senate Comm. on Indian Affairs*, 110<sup>th</sup> Cong. 1 (2007).

<sup>3</sup> See TEA-21 Reauthorization Resource Paper, BIA (May 2003), p. 32.

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## *Recommendations*

1. **Support continued funding for the Tribal Transportation Program (TTP).** The TTP system has a construction need of nearly \$60 billion.
2. **Continue coordination and consultation with tribes on the implementation of the MAP-21 transportation authorization.**
3. **Appoint a Deputy Assistant Secretary for Tribal Government Affairs in the Department of Transportation** in accordance with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or SAFETEA-LU.

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## TRIBAL TAX

The United States Congress has marked the 113<sup>th</sup> Congress as the appropriate venue for an overhaul of the United States Tax Code. Tribal governments are increasingly using their sovereign authority to tax to raise capital that will support government programs and infrastructure. However, tribal governments would benefit from slight changes to existing provisions of the Tax Code.

During the forthcoming debate on national tax reform, Congress must work to ensure tribal governments are included in a manner that encourages self-growth by allowing tribes to leverage their taxing authority in the same manner as states, while always acknowledging the sovereign taxing authority of Indian tribal governments.

### *Recommendations*

#### **General Legislation—**

1. **Support legislation that allows tribes to incentivize business development on tribal lands.** Enact legislation to extend tax incentives traditionally used by businesses operating on tribal lands, such as the Accelerated Depreciation for Business Property Located in Indian Country; the Indian Employment Tax Credit; the Indian Country Coal Production Tax Credit; and the New Markets Tax Credit.
2. **Support legislation that allows tribal taxing authorities to participate in tax collection systems designed to increase remote sales commerce in the future.** Support the inclusion of Indian tribal governments in any legislation that regulates the collection of sales taxes from remote sales, such as sales made over the Internet or through catalogue orders.

#### **Tax Reform Legislation—**

1. **Include Indian tribal governments in any forthcoming tax reform bill.** The last national tax reform occurred during the 1980s. As such, any tax reform will most likely create a Tax Code which will govern the United States, its territories, and Indian tribal governments for decades to come. For this reason, it is important that tribal governments be included in any tax reform efforts, as a matter of fairness.
2. **Treat tribes as states in instances such as:**
  - a. tribal authority to issue tax-exempt debt;
  - b. the authority of tribal child support enforcement agencies to offset tax refunds and access the same Parent Locator databases available to state and local child support enforcement agencies;
  - c. the classification of tribal charities as public charities;
  - d. the treatment of tribes with respect to SEC registration requirements and other rules applicable to financing and investments; and
  - e. for the purposes of excise taxes which provide exemptions for state and local governments (*e.g.*, excise taxes on luxury passenger vehicles, special fuels, and heavy trucks and trailers; manufacturing excise taxes, including the gas guzzler tax; communications excise taxes; wagering excise taxes; the harbor maintenance tax).

3. **Support the repeal of the ‘essential government function’ standard** used to evaluate employer-sponsored plans of Indian tribal governments.
4. **Support legislation exempting tribal government distributions from ‘kiddie tax’ provisions**, which impose federal income tax on the unearned income of certain minors and dependent children at their parents’ rates of tax.
5. **Support legislation that excludes income benefits provided to tribal citizens through General Welfare Programs** provided by tribal governments.

**Administrative Issues—**

1. **Support Administrative decisions which facilitate strong collaboration between the federal government and Indian Country in developing tribal tax policy.** Appoint a new Deputy Assistant Secretary for Economic Policy within the U.S. Department of the Treasury that has a strong understanding of tribal tax policy and a commitment to serve as the Tribal Liaison within Treasury, as did the prior Deputy Assistant Secretary for Economic Policy.

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# **CULTURAL PROTECTION**

# **NATURAL RESOURCES**

# **ENVIRONMENT**



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## SACRED PLACES

President Obama has stressed the importance of protecting sacred places as a cornerstone of his policy on religious freedom and cultural rights for Native peoples. While the Obama administration has made some progress to that end, such as the Department of the Interior's (DOI) recent consultations on sacred sites and the listening sessions hosted by the Department of Agriculture (USDA) in 2010, the Administration needs to lead coordinated efforts to protect sacred places from destruction by development, pollution, and other activities. Tribal leaders are especially concerned about recent actions to expedite energy projects and the harm that this may cause to Indian sacred places. Sacred places must be protected, in spite of these streamlined processes, so that the cultural and spiritual integrity of these landscapes can be preserved for future generations of American Indians and Alaska Natives.

### *Recommendations*

1. **Finalize the USDA Forest Service's Draft Policy on Indian Sacred Sites.** This policy was supposed to be finalized by the end of 2011 but has been consistently delayed. The delay raises concerns about the Administration's commitment to protecting sacred places.
2. **Increase interagency coordination to protect sacred places.** Numerous federal agencies have conducted consultations and listening sessions with tribes on cultural protection. All agencies involved with the development of policies for cultural protection must collaborate to ensure policy viability and sustainability.
3. **Streamlined energy projects should not override the tribal consultation process.** As the U.S. continues to focus on job creation and growth through the extraction of natural resources and the production of clean energy, the federal government must not bypass consultation with tribes. Additionally, the Administration must continue to adhere to the laws, policies, and regulations already in place (e.g., they must continue to conduct Environmental Impact Assessments under NEPA where necessary). The Administration must stay actively engaged with tribes who may be affected by proposed developments, especially if those areas hold cultural significance. Tribes must be guaranteed a "seat at the table" early and often so they can weigh in on detrimental development proposals.

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## FIXING THE TRUST SYSTEM: INDIAN LANDS AND NATURAL RESOURCES

### FIVE POINT PLAN FOR ADDRESSING THE TRUST SYSTEM IN THE SECOND TERM

Indian land spans over 55 million acres—an area larger than Nebraska. Land and natural resources are fundamental to the tribal cultures and economies. Indian land is held in trust or restricted status by the federal government to protect it from alienation and trespass and to protect tribal autonomy. Indian land and natural resources are also a primary source of economic activity for tribal communities.

The federal trust system for Indian land is troubled, but the Department of the Interior (DOI) can build on the successful trust settlements of the first term and empower tribes through the recently enacted the Helping Expedite Responsible Tribal Ownership (HEARTH) Act and similar reforms under consideration in Congress. NCAI encourages reforms that will streamline the bureaucracy that stifles economic development in Indian Country so the problems of the past will not recur.

#### **REFORMING THE TRUST SYSTEM FOR THE FUTURE**

As a primary priority, the Administration should consult with tribes, work with Congress, and move forward on trust reform measures that will make the federal government a partner in tribal economic development, rather than a bureaucracy that stands in its way. We need to increase the efficiency of trust administration, improve returns on trust resources, and redirect trust administration to increase support for tribal development initiatives.

#### *Recommendations*

1. **Restructure the Bureau of Indian Affairs (BIA) and Office of Special Trustee (OST).** The new National Commission on Indian Trust Administration and Reform has begun its work. In the future, we hope to see a diminishing need for historical accounting as tribal trust fund cases are resolved and the *Cobell* settlement is put to rest. NCAI is optimistic that the Commission will develop a plan for the future of OST that focuses on reservation management of trust resources and will continue to improve the administration of Indian trust land and trust funds. The plan should transfer the functions of the Special Trustee and create a single line of authority for all functions that are now split between the BIA and the Special Trustee, under a Deputy Secretary of Indian Affairs to supervise any activities related to Indian Affairs within any of the DOI agencies.
2. **Implement the HEARTH Act and Support Trust Asset Management.** The Administration should focus on implementing the HEARTH Act by providing technical assistance and encouraging tribes to take over resource management on their reservations. Direct service tribes also can be encouraged to engage in planning to identify trust assets, establish objectives and priorities, and allocate the available funding. Contracting and compacting tribes should be empowered to establish their own management systems consistent with federal laws. A renewed focus on planning will benefit economic development and land use.

3. **Fractional Interest Purchase and Consolidation Program.** Fractionation of land ownership is one of the root causes of trust mismanagement. The DOI must work directly with the tribal governments on the reservations where the fractionation exists. The Indian Land Consolidation Act should be amended to streamline land acquisition procedures and create incentives for voluntary sales of fractionated interests by allowing the Secretary to offer more than fair market value. The DOI should also reengage on estate planning, so that fractionation does not start again.
4. **Audit of Trust Funds.** The Inspector General of the DOI should hire an independent auditor to conduct an audit of the Secretary's trust funds financial statements and report on the Secretary's internal controls. The Comptroller General would conduct a review of the audit.
5. **Regulations, Policies, and Systems.** The DOI is struggling to update many old regulations and systems that date back as far as the 1930s. Work has started but much more is needed. The key is to remove obsolete bureaucratic oversight and to create greater flexibility to encourage tribal self-management and to account for the very different resources on different reservations. Title and appraisals need particular attention, as do regulations regarding leasing, probate, and improvements.

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## ENERGY

Though tribal energy resources are vast—Indian land comprises 5% of the land area of the United States, but contains an estimated 10% of all national energy resources—they are largely untapped. Development of tribal energy is critical to America’s efforts to achieve energy security and independence, reduce greenhouse gases, and promote economic development. Indian Country’s potential to be a significant player in the emerging energy economy and the sustainable development of energy infrastructure is integral to tribal efforts to generate jobs and to improve tribal members’ standards of living. These are all essential foundational components to the future success in Indian Country.

### *Recommendations*

1. **Remove barriers to energy development.** A multitude of obstacles currently inhibit tribal energy development. Many of these barriers are unique to tribal governments, including a myriad of duplicative bureaucratic processes, disincentives to tribal financing, and inequitable exclusion from important federal programs. To address these barriers, the Administration should:
  - a. Eliminate the \$6,500 application fee for a permit to drill in Indian Country by clarifying that the BLM Application for Permit to Drill (APD) fees were not intended to affect tribal lands;
  - b. Include and prioritize infrastructure development, such as transmission and electrification investments on Indian lands within relevant agencies; and
  - c. Coordinate with other agencies that have infrastructure development authorities, like the Public Health Service, to facilitate coordinated tribal community infrastructure development.
  
2. **Ensure that any new hydraulic fracturing regulations do not unfairly burden or harm tribes.** The Bureau of Land Management (BLM) is proposing a rule to regulate hydraulic fracturing on public land and Indian lands. The rule would provide disclosure to the public of chemicals used in hydraulic fracturing on public land and Indian lands, strengthen regulations related to well-bore integrity, and address issues related to flow back water. Indian Country considers the rule to be a part of the myriad of duplicative bureaucratic processes that slow and impede Indian energy development. The rule should be revised to acknowledge tribal sovereignty over Indian land, comply with Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”), and remedy the negative economic impacts that the rule as currently drafted would have on tribal economic development. Specifically, we urge the Administration to:
  - a. Consult with tribal governments according to Executive Order 13175 whenever developing regulations that will affect tribal energy development; and

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- b. Undertake a comprehensive review to streamline processes related to Indian energy development.
3. **Include tribes in clean energy development under Executive Order 13423.** As the largest energy consumer in the U.S. economy, the federal government was directed to lead by example and support clean energy development when President Bush signed Executive Order 13423 on January 24, 2007, and when it was codified into law as part of the 2009 Omnibus Appropriations Act. Agencies need to meaningfully include tribes when working to achieve the goals outlined in Executive Order 13423. This means that federal agencies should include tribal renewable energy products as part of their annual sustainability plans and identify how they will utilize their authority to prefer tribal energy products to meet those goals. Additionally, the Department of Defense and cooperating agencies should identify plans to engage tribes with potential energy products that meet their procurement goals.
4. **Invest in the development of renewable energy in Indian Country.** In the last year, there has been a notable improvement in federal efforts to develop renewable energy in Indian Country; however, much more needs to be done. Through the Recovery Act funding of the Department of Energy (DOE) Energy Efficiency Conservation Block Grant program, many tribes were able to establish—for the first time ever—the capacity to even consider energy and energy efficiency projects. Tribal energy capacity building efforts must be expanded and supported. DOE’s new tribal leader and staff training programs should be expanded. Additionally, the Department of the Interior’s resources should be laser-focused to support tribes’ evaluation of and entrance into Tribal Energy Resource Agreements (TERA), as well as tribal capacity evaluations and related governance needs for TERA programs. DOI should also engage in a parallel effort to support HEARTH Act applications to take over leasing functions related to energy. DOE’s Office of Indian Energy unprecedented levels of technical assistance for tribes should be continued and expanded to include grant program priorities, as originally contemplated by the Energy Policy Act of 2005.
5. **Improve the government-to-government relationship.** The Indian Country Energy & Infrastructure Work Group (ICEIWG), comprised of tribes and established by the Department of Energy last year, serves as a forum to regularly collaborate and consult with tribal governments to ensure that federal energy initiatives and program design are responsive to the needs and priorities of Indian Country. In order to promote better and increased federal interagency cooperation, this emerging best practice tool should be expanded to include more tribes and more federal agencies.
6. **Increase tribal energy funding.** The Administration should request and advocate for the maximum statutory amount available under the Energy Policy Act for the DOE Office of Indian Energy, which, because of its broad statutory authority, can and should direct and manage DOE’s tribal energy grant funding and technical assistance efforts where tribes need them. It should also finalize consolidation of all DOE tribal energy program activities to the Office of Indian Energy to achieve the intent of the Energy Policy Act of 2005.
7. **Facilitate implementation of the HEARTH Act.** With the passage of the HEARTH Act and the progress made towards supporting Tribal Energy Resource Agreements (TERAs), the federal government should focus efforts and funding resources to help tribes prepare to use

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these tools to benefit tribal energy development. The Administration should support tribal applications for the TERA program to enable more than 10 tribes to undertake comprehensive assessments of their energy development potential and conduct the assessments and consultations necessary to develop their energy resources. It should also increase funding and other DOI support for tribes as they undertake HEARTH Act programs for leasing and permitting for energy projects.

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## CLIMATE CHANGE

American Indians and Alaska Natives are often more impacted by the effects on global warming and climate change due to the geographical areas in which they reside and their direct connection to their surrounding environment. These changes pose threats not only to their health and food supply, but also to their traditional ways of life. Climate change and global warming are reducing the natural ecosystems and biodiversity on which Native peoples have come to rely. The traditional time to gather plants is changing, and animals are confused as to their migration patterns. Some villages in Alaska that are located near rivers or streams now find the water at their front door. In the southwest, tribes are experiencing prolonged drought.

The needs and resources required to combat this weather phenomenon are vast, and Native peoples must:

1. Engage in a direct partnerships with government and industry;
2. Access project funding related to climate change & global warming;
3. Form working groups within their communities; and
4. Empower tribal communities and members to make positive changes on their own.

As part of this process, the federal government should take the following steps to help tribes address climate change and its disproportionate effects on Native peoples.

### *Recommendations*

1. **Increase funding for tribal climate adaptation efforts.** Given that tribal natural resources have been historically underfunded and no federal programs or funding streams specifically support tribal climate adaptation efforts, the BIA should increase its funding for such efforts to a minimum of \$8.75 million, or 5% of the Department of the Interior's Climate Change Adaptation Initiative.
2. **Abide by established treaties.** Tribes signed treaties with the understanding that the federal government has the trust obligation to ensure that tribal reserved resources would persist forever. The impetus for the federal government's active engagement with tribes on climate change adaptation is thus compelled by the tribes' status as sovereign nations with certain rights established under treaties.
3. **Honor the trust relationship.** The federal government must honor its fiduciary trust responsibility to tribes and protect tribal land and resources. As a matter of policy, the United States also has the obligation to consult and interact with tribes on a government-to government basis under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Federal agencies must fully implement this EO. The federal government must also ensure that Secretarial Order 3289 is fulfilled in a manner that protects the nation's natural resources, cultural heritage, and tribal lands and resources from the effects of climate change, and in a manner that facilitates coordination between federal, state, local, and tribal government agencies.

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## ALASKA NATIVE SUBSISTENCE

Federal laws protecting American Indian and Alaska Native hunting, fishing, and gathering rights apply throughout the United States, but nowhere are they more critical than in Alaska, where hunting, fishing, and gathering remain an economic necessity. Subsistence resources constitute a substantial majority of the nutritional needs of Alaska's Native people, especially in rural areas where the need for subsistence resources for daily nutritional, spiritual, and cultural sustenance is the greatest. The Indigenous peoples of Alaska have a basic human right to their subsistence way of life and to maintain their cultural beliefs and practices.

Indian Country strongly supports the efforts of Alaska Natives to obtain stronger federal protections for Alaska Native subsistence hunting, fishing, and gathering rights. The U.S. government has a trust responsibility to Alaska Natives to honor the commitment it made to them in the Alaska Native Claims Settlement Act of 1971 (ANCSA) and in Title VIII of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). This commitment is to establish and implement a comprehensive federal program that will protect their way of life. Fulfilling this commitment is central to the survival of this and future generations of Alaska Natives.

### *Recommendations*

#### **1. Develop legislation to provide lasting protection for Alaska Native subsistence.**

The very foundation of Alaska Native culture and nutritional need is met by subsistence hunting and fishing. When Congress enacted Title VIII of ANILCA, it envisioned state implementation of the federal priority for subsistence uses on all lands and waters in Alaska through a state law implementing a rural priority. That system operated for a mere 7 years before the Alaska Supreme Court ruled in 1989 that the State Constitution precluded the State's participation in the cooperative federalism program. Ironically, the state had insisted on a "rural" rather than "Native" subsistence preference in ANILCA. Since 1989, all efforts to amend the State Constitution to comply with ANILCA's rural priority, and thus to have a unified subsistence management regime, have failed. Over the last decade, the State of Alaska, anti-subsistence groups, and the previous Administration have aggressively and successfully taken actions to subvert federal law and policies. They have also virtually gutted state subsistence laws, leaving those who once depended on Native-owned or state lands to fulfill their subsistence needs without meaningful protection. The erosion of federal protections led to the recently completed secretarial review of the subsistence management program.

Unfortunately, the results of the secretarial review are inadequate. The proposed changes to the federal management program do not address the fundamental problems with the existing law. The checkerboard system of protection was not what Congress envisioned when it enacted Title VIII. Congress recognized that "the continuation of the opportunity for subsistence uses . . . is essential to Native physical, economic, traditional, and cultural existence." Rather than defending and maintaining a system that no longer serves its intended purposes, Indian Country calls upon the White House and Congress to consider options that realize Congress's original intention that

Alaska Native hunting, fishing, and gathering rights be protected. Necessary changes in federal law include (a) a “Native plus rural” priority for subsistence, (b) the extension of subsistence priority to Native-owned lands and all navigable waters and marine waters in Alaska, and (c) providing an ongoing and meaningful role for Alaska Natives in the federal subsistence management program. While only Congress can make the statutory changes necessary to fix the fundamental problems with Title VIII of ANILCA, the Administration can, and should, work with the Alaska Native leadership to develop legislation that the Administration can propose to Congress to ensure the continuation of this Alaska Native subsistence way of life.

**2. Convene a high-level interagency meeting with key White House officials, including the Domestic Policy Council and departments with jurisdiction over subsistence uses.**

Subsistence management and the legal rights of Alaska Natives cut across a number of departments within the Administration, including Interior, Agriculture, Justice, and Commerce. If meaningful protections are to be provided for subsistence hunting and fishing in Alaska, there must be an ongoing dialogue between Alaska Native leaders and the agencies with jurisdiction over the various aspects of Alaska Native ways of life. This is a critically important moment in history for Alaska Natives with respect to hunting and fishing, the foundation of a subsistence way of life, and a mainstay of Native nutrition and economies. Presidential involvement has been a hallmark of all of the major federal laws affecting Alaska, including the Alaska Statehood Act; ANCSA; and ANILCA, including Title VIII of that Act, which was intended to provide protection for subsistence hunting and fishing rights and to fulfill the promises of ANCSA. The same level of White House commitment and involvement is needed today.

**3. Take interim administrative measures to increase protections for subsistence.**

In addition to convening a high-level interagency meeting on subsistence, the President should issue an Executive Order to advise federal agencies and the Federal Subsistence Board that Title VIII of ANILCA is “Indian Legislation,” enacted under the plenary authority of Congress over Indian Affairs. The President should also direct the Office of Subsistence Management to implement a subsistence management program in accordance with the Executive Order. Title VIII was enacted to protect the subsistence way of life of rural Alaska residents, including residents of Native villages. In implementing the statute, Congress expressed its long-standing concern for, and obligation to, protecting subsistence uses of Alaska Natives and fulfilling the purposes of ANCSA. Although the statute provides for a “rural” preference, it is important to remember that the subsistence title would never have been added to ANILCA had it not been for the efforts of Alaska Natives.

**4. Issue a disaster declaration on the severe depletion of Chinook salmon runs.** The 2012 Chinook salmon return is documented as one of the worst in recorded history. Nowhere are salmon more important to the survival, subsistence economy, and essential way of life of Alaska Natives. The federal government should issue a disaster declaration so that affected tribes may access disaster relief funds to address immediate subsistence needs.

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National  
Congress of  
American  
Indians

## WATER RIGHTS

When Indian reservations were established, American Indian tribes reserved water rights, and these are possibly the most important rights many Indian tribes have yet to exercise.

While the United States carries the legal obligation as trustee to protect these tribal rights, federal water policy and programs have too often supported non-Native communities to the detriment of tribal legal rights. As a result, many tribal communities now suffer from inadequate, often compromised, water supply. Today, too many homes on Indian reservations lack a clean and reliable water supply; in some cases, there is none at all. In addition, the lack of water and water infrastructure has halted economic development on some reservations and damaged precious cultural and natural resources. Increasing pressure on water supply from climate change, population growth, and economic development will require more tribes to resolve their water rights claims in the near future.

As of 2011, only 27 out of 566 federally-recognized tribes have approved water settlements by Congress. The federal government continues to bypass development of tribal water resources and move slowly on water rights settlements. In 2009, the federal government spent over \$3 billion on water projects in foreign countries. Yet, since that time, the federal government spent a total of only \$1.7 billion on Indian water rights settlements. Of the 566 federally recognized Indian tribes, fewer than 75 have resolved their water rights claims through litigation or settlement.

The federal government, in partnership with tribal governments, should establish water rights, resolve claims, and appropriate the necessary funding to ensure tribal access to water resources.

### *Recommendations*

#### **1. Support the Resolution of Tribal Water Rights Claims**

The Administration should direct federal agencies to prioritize resolution of outstanding, pending tribal water rights claims. This process could be advanced through an Executive order. The Administration must create a permanent, sustainable, well-funded mechanism for funding Indian water rights settlements, and increase funding for the Bureau of Indian Affairs (BIA), the Bureau of Reclamation, USDA Rural Development, and other relevant offices to address issues of water rights.

#### **2. Prioritize Reclamation Fund Monies to Fund Indian Water Rights Settlements**

The Administration must encourage Congress to prioritize the Reclamation Fund due to its critical role as the primary funding source for Indian water rights settlements. The Reclamation Fund is an appropriate primary funding mechanism for Indian water rights settlements in the west. Created in 1902 to finance agricultural water projects and infrastructure to build up the 17 western states, the Reclamation Fund is ideally

positioned to fund Indian water rights settlements that comply with Reclamation Act requirements. The Reclamation Fund acquires money through repayments on the sale, lease, or rental of public lands, as well as revenues from mineral leases and timber sales. These payments have been increasing in recent years, largely due to increasing oil and gas prices, and the available balance makes it a viable mechanism for funding Indian water rights settlement.

**3. Support water resources development and management on tribal lands**

The federal government should work with tribes to build tribal technical capacity to develop water resources, water management, and water infrastructure. This could be done by instructing agencies, such as BOR, United States Geological Survey, and Environmental Protection Agency, to work with tribes on water resources projects on tribal lands. The Administration could also increase tribal management of water resources on Indian lands by repealing the BIA moratorium on the approval of tribal water codes.

**4. Support Water Availability for Fishery Habitats**

The Administration should support tribal involvement in state water policy development to promote healthy fisheries habitats. In addition to surface water diversions, state groundwater laws are also having a significant effect on stream flows and tribal fisheries. Many state groundwater policies regarding withdrawals have few ecosystem protections. These water withdrawals are affecting in-stream water quality and quantity, which adversely affects fishery habitats.

**5. Support Water Quality Standards that Protect Tribes and Tribal Lands**

The Administration should promote safe water quality standards to protect surface and subsurface streams and repositories flowing into tribal lands. As trustee, the federal government should intervene on behalf of tribes when upstream users are polluting or contaminating water resources that tribes use for subsistence, economic development, and cultural practices. Chemical pollutants like cyanide, mercury, pesticides, and others that are affecting tribal water resources must be addressed by the Administration and appropriate federal agencies.

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# tribal business Journal



From left to right: Clara Pratte, Navajo Nation; Kevin Washburn, Assistant Secretary — Indian Affairs; Tara Sweeney, Arctic Slope Regional Corporation  
Photos courtesy of the U.S. Chamber of Commerce

## U.S. Chamber of Commerce Launches Native American Enterprise Initiative

On December 3, 2012, the U.S. Chamber of Commerce (Chamber) held its inaugural meeting of the "Native American Enterprise Initiative (NAEI)," a new category of tribal membership in the Chamber that is designed to identify and implement a comprehensive legislative and policy agenda on commonly-held priorities and issues.

In addition to representatives of the Navajo Nation, the Cherokee Nation, the Quapaw Tribe of Oklahoma, the Southern Ute Indian Tribe, and the Arctic Slope Regional Corporation, members of the NAEI were addressed by Rep. Don Young (R-AK), Sen. Lisa Murkowski (R-AK), Sen. John Hoeven (R-ND) and Kevin Washburn, newly confirmed Assistant Secretary — Indian Affairs, who is also an enrolled member of the Chickasaw Nation of Oklahoma.

Lead by the "Leadership Council," made up of various Indian tribes and Alaska Native Corporations, the NAEI has established a core set of Unifying Principles, including a strong desire for consensus among the membership; a willingness to work with existing tribal organizations in Washington, D.C.; a preference for bi-partisanship in strategy and tactics; and a results-oriented approach to address the ongoing challenges to business and economic development in Indian Country.

The Leadership Council has identified broad areas of endeavor as part of its Legislative Agenda that will include Taxation, Energy and the Environment, Labor Relations, and Trade and Economic Development. For more details and membership information, please log on to the NAEI's website at [www.uschamber.com/naei](http://www.uschamber.com/naei).

## New Indian Surface Land Leasing Regulations

In November 2012, the Department of the Interior issued a new regulation governing the process for approving surface leases for tribes and individuals in the areas of residential, business, and renewable energy leasing activities. The regulations are intended to provide tribes greater control over their lands, streamline approval processes, create jobs and enhance economic development opportunities. In addition, the regulations place action deadlines on the Bureau of Indian Affairs. The bureau is given 30 days to act on residential leases, subleases and mortgages and 60 days for commercial and industrial leases. If the bureau does not take action within these timeframes, the leases are deemed approved.

In a related action, in July 2012, President Obama signed into law the *Helping Expedite and Advance Responsible Homeownership Act* (Pub.L.112-151; HEARTH Act), which amends the *Indian Long-Term Leasing Act of 1955* to authorize Indian tribes to develop and manage their own surface leasing regimes for residential, business, public, religious, educational, or recreational purposes without the review or approval of the Interior Secretary.

## Secretarial Commission on Indian Trust Administration and Reform

In November 2011, the Interior Secretary named five American Indian individuals to serve on the Secretarial Commission on Indian Trust Administration and Reform established pursuant to the Cobell settlement to evaluate the Department of Interior's trust management and administration of nearly \$4 billion in Native American Trust Funds and provide recommendations for improvements. Members of the Commission include Fawn Sharp, Chair; Quinault Indian Nation; Dr. Peterson Zah, former Navajo Nation President; Stacy Leeds, Dean and Professor, University of Arkansas School of Law, Cherokee Nation; Tex Hall, President, Mandan, Hidatsa, & Arikara Nation; and Bob Anderson, Professor, University of Washington, Bois Forte Band of Chippewa.

In March 2012, the Commissioners met in Washington, D.C. for the first time to discuss the Commission's mission, objectives, and logistics. While the Commission has two years to complete its work, given the uncertainties of the November elections, the Interior Secretary encouraged them to expedite their deliberations and subsequent trust reform report and recommendations.

A second meeting of the Commission is expected to occur in January 2013, in Seattle, WA.

In addition, the Interior Department released its draft Cobell Land Consolidation Program Plan. The Draft Plan proposes to create the Targeted Land Fractionation Program, which is intended to reduce land fractionation in highly-fractionated areas and the Willing Seller Program, which would allow willing sellers to sell their interests regardless of their location. The Draft Plan will be finalized after additional tribal input is received.

The Interior Department manages 56 million surface acres and 57 million acres of subsurface mineral estates for 384,000 Individual Indian Money (IIM) accounts and about 2,900 tribal accounts (over 250 tribes). Tribal trust assets include land, timber, grazing, oil, gas and mineral resources. For trust lands, the Department manages about \$3.9 billion in trust funds and more than 109,000 leases. In Fiscal Year 2011, funds from leases, use permits, land sales and income from financial assets, totaling about \$400 million, were collected for 384,000 IIM accounts. About \$609 million was collected in Fiscal Year 2011 for 2,900 tribal accounts.

In November 2012, the U.S. Supreme Court rejected the final appeals of the Cobell Settlement, paving the way for the distribution of \$1.9 billion to IIM account holders, and the department's expenditure of \$1.5 billion pursuant to the Draft Plan.

## Advancing Energy Development on Tribal Lands

With abundant natural resources, Native American lands are estimated to contain 10 percent of all energy resources in the U.S. In addition to significant wind, solar, and other renewables, the U.S. Department of the Interior estimates that revenue from conventional energy development alone would top \$1 trillion. This resource base, together with dire economic conditions in most tribal communities, has led to the introduction of legislation to spur energy development on tribal lands.

In October 2011, Senate Committee on Indian Affairs (SCIA) Vice Chairman John Barrasso (R-WY) along with Chairman Daniel Akaka (D-HI), and Senators John McCain (R-AZ), and John Hoeven (R-SD), introduced the *Indian Tribal Energy Development and Self-Determination Act Amendments of 2011* (S.1684). A legislative hearing was held in April 2012 and the bill was reported favorably in September 2012.

If enacted, S.1684 would facilitate energy development on tribal lands, encourage economic development and job creation, and provide tribes greater control over the management and development of their energy resources. In addition, the measure would:

- » Facilitate the use of Tribal Energy Resource Agreements and encourage Indian tribes to assume responsibility to review, approve and manage leases, business agreements and rights-of-way without the approval of the Interior Secretary.
- » Provide for a certification process to encourage Tribal Energy Development Organizations to assist tribes in leasing, business agreements and rights-of-way activities.

Amend the *Federal Power Act* to treat tribes the same as states and municipalities when preliminary permits or original licenses are awarded for hydroelectric projects.

- » Establish a Tribal Biomass Demonstration Project to promote biomass energy production on tribal forest land, rangelands and Federal lands.
- » Authorize tribes to receive direct weatherization assistance from the Department of Energy.

In February 2012, Rep. Don Young (R-AK), Chairman of the House Subcommittee on American Indian and Alaska Native Affairs introduced the *Native American Energy Act* (H.R.3973), to address statutory, regulatory and other barriers to tribal energy development. The bill prohibits the assessment of fees for Applications for Permits to Drill on tribal lands; reforms the appraisal process; creates up to five Indian Energy Development Offices to coordinate Federal decision-making; creates demonstration projects for biomass energy production; and authorizes the Navajo Nation to develop and administer subsurface leasing activities without the involvement of the Interior Secretary. On May 16, 2012, the SIANA favorably reported the bill and on October 23, 2012, filed H.Rpt. 112-692, a Report to Accompany H.R.3973.

## President Barack Obama Elected for a Second Term

On November 6, 2012, the American people voted to re-elect President Barack Obama and Vice President Joe Biden by a popular vote margin of 51 to 49%. The electoral vote tally was 332 electoral votes for Obama-Biden and 206 electoral votes for the Romney-Ryan ticket. On Monday, January 21, 2013, President Obama will be sworn-in for a second term.

President Obama's re-election will result in several cabinet members stepping down. It is anticipated that various cabinet members will be leaving their posts, including the following: Attorney General Eric Holder, Secretary of State Hilary Clinton, Defense Secretary Leon Panetta, Treasury Secretary Tim Geithner, Energy Secretary Steven Chu, and Transportation Secretary Ray LaHood. It is also rumored that Interior Secretary Ken Salazar may be departing before the second term begins in earnest.

## Republicans Retain Majority in the U.S. House of Representatives

In the 113th Congress, the U.S. House of Representatives will remain in Republican hands, with 234 Republicans and 201 Democrats.

Twenty-three incumbents lost in the general elections, 10 Democrats and 13 Republicans, including Rep. Joe Baca (D-CA) and Rep. Mary Bono Mack (R-CA). Currently, there are 79 new incoming members of the 113th Congress, including those whose district will include sizable American Indian populations: Rep.-elect Ann Kirkpatrick (D-AZ), Rep.-elect Raul Ruiz (D-CA), Rep.-elect Michelle Lujan Grisham (D-NM), Rep.-elect Markwayne Mullin (R-OK), Rep.-elect Derek Kilmer (D-WA), and Rep.-elect Mark Pocan (D-WI).

Due to term limits and retirements, some top leadership positions on House Committees are expected to change in the 113th Congress, including the Committees on Financial Services (HFS) and Transportation and Infrastructure. The Current HFS Chairman Spencer Baucus (R-AL) is stepping down due to term limits and Ranking Member Barney Frank (D-MA) is retiring. Their likely successors are Jeb Hensarling (R-TX) as Chairman and Maxine Waters (D-CA) as Ranking Member. The current Committee on Transportation and Infrastructure Chairman John Mica (R-FL) is stepping down due to term limits. Rep. Bill Shuster (R-PA) will step in to take the chairmanship. Current Ranking Member Nick Rahall (D-WV) is expected to retain his ranking member status.

Within the Committee on Natural Resources, current Chairman Doc Hastings (R-WA) will return as Chairman, and Rep. Edward Markley (D-MA) as Ranking Member. In addition, on the Subcommittee on Indian and Alaskan Native Affairs, Rep. Don Young (R-AK) will remain as Chairman and the Ranking Member has yet to be identified.

## U.S. Senate Democrats Retain Majority

In the 113th Congress, Democrats will retain control of the Senate, with 53 Democrats, 45 Republicans, and 2 Independents. The two independents will caucus with the Democrats, effectively giving Democrats a 10-seat majority. New members of the Senate include the following individuals: Sen.-elect Chris Murphy (D-CT), Sen.-elect Jeff Flake (R-AZ), Sen.-elect Mazie Hirono (D-HI), Sen.-elect Angus King (I-ME), Sen.-elect Elizabeth Warren (D-MA), Sen.-elect Deb Fischer (R-NE), Sen.-elect Martin Heinrich (D-NM), Sen.-elect Heidi Heitkamp (D-ND), Sen.-elect Ted Cruz (R-TX), and Sen.-elect Tim Kaine (D-VA).

Majority leadership positions in the Senate will go largely unchanged with Senator Harry Reid (D-NV) as the Majority Leader, Richard Durbin (D-IL) as Majority Whip, Charles Schumer (D-NY) as Democratic Conference Committee Vice Chair, and Patty Murray (D-WA) as Democratic Conference Secretary.

Republicans in the Senate will be lead by Senator Mitch McConnell (R-KY) as Minority Leader, Senator John Cornyn (R-TX) as Minority Whip, Senator John Thune (R-SD) as Republican Conference Chair, Senator John Barrasso (R-WY) as Republican Policy Committee Chair, and Senator Roy Blunt (R-MO) as the Republican Conference Vice Chair.

Top positions on key Senate committees are expected to change due to term limits and retirements, including within the Committees on Energy and Natural Resources (SENHR) and Indian Affairs (SCIA). Current SENHR Chairman Jeff Bingaman (D-NM) is retiring at the end of this session. Senator Ron Wyden (D-OR) is expected to be the next Chairman. Ranking Member Lisa Murkowski (R-AK) is expected to retain her ranking member status. Within the SCIA, current Chairman Dan Akaka (D-HI) is also retiring at the end of this session. It is expected that Senator Maria Cantwell (D-WA) will chair the panel. Vice Chairman John Barrasso (R-WY) is expected to retain his leadership position.

# Interview With Don Young



Photo courtesy of the U.S. Chamber of Commerce

**Q** You have been in Congress for 40 years and worked with 8 different Presidents. How have things in Washington changed over the years?

**A** “ Washington has certainly become more polarized over the past few decades. 40 years ago we didn’t have 24-hour news networks and the amount of pundits (or as I like to call them, bobble heads) was significantly less. Another change I have seen over the years is the way in which Members of Congress treat one another. Members and their families used to socialize and spend weekends together whether it was at a sporting event or Church, but nowadays Members are here Tuesday through Thursday and are on the first plane out of DC Friday morning. I am a firm believer that if your spouses are close or your families are well acquainted, you are less apt to have a contentious relationship with that person. Unfortunately, we see far too many of these sort of contentious relationships in Congress these days. ”

**Q** How have Indian and Alaska Native issues changed over this time?

**A** “ Over the past 40 years, tribes from across the country have pursued economic self-determination, many times without the support of the Federal government. Federal Indian Policy over the past four decades has slowly moved toward further self-determination, but instead of working with tribes and supporting them, the Federal Government has stood in the way of their sovereignty. ”

This year is the 40th Anniversary of the Alaska Native Claims Settlement Act (ANCSA) and in many ways Alaska Natives have not seen the Settlement completely fulfilled by the government because not all lands have been finally conveyed, yet. While ANCSA provided Alaska Natives with 44 million acres of lands for economic development, hunting and fishing, and preservation of their heritage, the Federal government through ever-increasing regulation has been chipping away at their property rights and their ability to have full use of and access to their lands.

**Q** As the Chairman of the Subcommittee on Indian and Alaska Native Affairs, what are your priorities for the 112th Congress?

**A** “ Aside from considering legislation that Representatives sponsor for the tribes they represent, and conducting oversight hearings on agencies under the Subcommittee’s jurisdiction, the general priority of the Subcommittee will be to study how to move the federal government away from exercising control over Indian tribes while enhancing tribal sovereignty and self-determination. Through hearings and meetings with tribal leaders, we have identified the Federal Government as being the single greatest obstacle to tribal economic progress. ”

**Q** Senator Claire McCaskill (D-MO) and Rep. Bernie Thompson (D-MS) have been very skeptical of Indian tribal and Alaska Native 8(a) contracting and, in fact, have proposed to eliminate the exemption on noncompetitive bids for Alaska Native corporations. I note that the House version (H.R.598) was referred to your Subcommittee. Why do you think the program has come under such criticism and will the Subcommittee hold hearings on the bill?

**A** “ Alaska Native Corporations have become an unjustified target for criticism, and have been targeted because of their success. Sole-source government contracting is dominated by multinational corporations. Alaska Native corporations represent less than one percent of the billions spent on these government contracts. ”

Oversight is critical, and the Small Business Administration (SBA) has revamped their regulations for Native 8(a) contracting to increase transparency and oversight to reduce potential for abuse. The problems with contracting and subcontracting are not limited to any one program. We must look across the board at government contracting including the direct and indirect impacts on small businesses stemming from large sole source contracts that are continuously awarded to very large non-8(a) companies. As we've seen recently, often the Federal agencies themselves are the source of these problems, not the small businesses.

**Q** The Subcommittee has had several hearings on job creation, investment, and economic development in tribal communities. In your opinion, what do you think are the biggest obstacles for economic development and investment in Indian Country and what are your recommendations for creating jobs and improving standards of living in tribal communities?

**A** “ As mentioned above, the biggest obstacles to development in tribal communities have one thing in common: the Federal Government. Let's take just one example. In 2009 the U.S. Environmental Protection Agency, acting on behalf of special interests, took away a lawfully issued permit from the Navajo Nation for the construction of a large power plant on the Nation's reservation. This would have been the largest clean-coal power plant in the nation, creating many jobs on the Nation's reservation and providing a steady source of revenues to the tribal government. Even the Bureau of Indian Affairs piled on when it denied the Nation a land lease for the project. This was an egregious case. It would take up too much space for me to list the less egregious examples of how a federal bureaucracy, through a maze of confusing rules, of delays and inaction, stifles efforts of tribes to attract private investment onto their lands, to build homes for their families, and to improve the quality of life for members. ”

**Q** Indian Country is endowed with huge potential to develop timber, agricultural products, oil, gas, coal, biomass, wind, solar, geothermal, and other forms of energy. You have taken the lead in trying to reform existing laws and policies that are inhibiting resource development. Do you think your bill, the “Native American Energy Act” (H.R.3973), will be enacted this year?

**A** “ Many large, land-based tribes have a tremendous store of natural resources. The wise use of these resources can provide lasting benefits in the form of jobs for tribal members, the production of raw and refined materials to sustain the United States' manufacturing base, and revenue sources for tribal governments. Studies show that jobs in the natural resources' industry earn among the highest-wages available of any job sector. To remove federal impediments to and promote tribal authority over energy resources, I introduced H.R. 3973, the Native American Energy Act. Every provision in this Act was requested by Native Americans, and I'm pleased that a hearing the Subcommittee recently held on the bill yielded much bipartisan support and valuable testimony from a range of tribal leaders. At the same time, I was extremely disappointed that the Department of the Interior refused an invitation to testify on the bill. I encourage tribal officials to call the Administration to account for the indifference it has displayed to Native American energy development. ”

Can H.R. 3973 be enacted this year? There are a few complex provisions in the bill that may need some fine-tuning, which I intend to do through a consultation process. I am hopeful for its chances of moving through the Committee but realistically, enacting laws this year is a challenge for all Committees. The one advantage we have with this bill is that passing “all of the above” energy legislation is a top priority of House Republican Leaders. Unfortunately, we have to deal with an Administration that has been strongly opposed to development of natural resources on federal and Native American lands including oil, gas, coal, timber, and hard rock minerals. Nonetheless, our Committee's work will continue and over time I have every confidence that we will pass a Native American energy bill.

# Q & A

**Q** The Cobell v. Salazar trust funds settlement has not been finalized and various appeals are still pending. You have introduced a bill to direct the Interior Secretary to prepare a report on Indian land fractionation and also to limit attorneys fees, expenses and costs in that settlement to \$50 million. Is there broad support for this bill in the House of Representatives?

**A** “ I believe that when the House studies the rationale for the bill, there will be broad support for it because it will return \$49 million to individual Indians, which still leaves the plaintiffs’ attorneys with \$50 million. ”

Here is some history to put H.R. 887 in perspective. There has been a misconception that Ms. Cobell’s lawyers have worked without pay since 1996. In fact, the District Court has awarded them more than \$7 million in fees and expenses. In 2009 the Obama Administration signed an agreement promising the plaintiffs’ attorneys up to \$99 million in fees, with every dollar in fees taken from the pockets of individual Indians. Even the Department of Justice called this “grossly excessive.”

In 2010, Representative Doc Hastings (the minority Ranking Member at the time) filed an amendment to cap the fees at \$50 million, a sum the plaintiffs’ lawyers testified they could live with. But House Democratic Leaders who controlled the House refused to make the amendment in order, forcing us to choose between the settlement package without changes, and no settlement at all. I cast my vote in favor of approving the settlement after weighing the benefits of ending the long-running lawsuit against the costs of delaying a resolution.

Apparently, \$99 million was not enough for the lawyers. Soon after President Obama signed the settlement into law, they unveiled what had been a secret contingency fee agreement for \$223 million. Fortunately, the Court did not grant this outrageous request.

My support for the settlement did not mean I would not seek to improve the settlement’s flaws. I view H.R. 887 as a means of improving one aspect of the settlement for the benefit of the individual Indian money account holders, while allowing the attorneys a fee that is more than generous.

**Q** You have also introduced the “American Indian Empowerment Act” (H.R.3532) to authorize the return of tribal trust lands to tribes in restricted fee status so long as the tribe makes such a request. Do you see this proposal as part of the ongoing Indian trust reform efforts?

**A** “ Yes. I introduced H.R. 3532 as a kind of discussion point for Congress and tribal leaders to explore ways to advance self-determination to its logical goal: taking Indian lands out of federal control. As I said during the Subcommittee hearing on H.R. 3532, while tribes have seen great progress since President Richard M. Nixon launched the modern era of tribal self-determination, the Federal Government ultimately sets the rules for a tribe to follow because legal title to Indian lands is held in trust by the Department of the Interior. For the most part, the Department’s rules for managing Indian lands are designed to minimize risk to taxpayers, which has the effect of minimizing returns to the tribal beneficiary. Ironically, the Department’s historic mismanagement of Indian lands is legendary – and costly both to tribes and to taxpayers. I want tribes to think about taking their lands out of trust while preserving its Indian Country status, and without breaking the government-to-government relationship between tribes and the United States. ”

**Q** You have been one of the biggest champions of tribal contracting and compacting under the Indian Self-Determination and Education Assistance Act and the Tribal Self-Governance Act. Tribes and tribal consortia now manage roughly one half of the BIA and Indian Health Service budgets and programs. What can Congress do to encourage greater levels of contracting and compacting?

**A** “ I am a proud cosponsor of H.R. 2444, the Department of the Interior Tribal Self-Governance Act of 2011, which was introduced by the Subcommittee Ranking Member, Dan Boren of Oklahoma. Dan is a great friend of Indian Country and it has been a pleasure working with him to advance tribal self-determination policies in the House. The provisions in H.R. 2444 will facilitate additional opportunities for tribal governments to assume more BIA and IHS functions and expand into other agencies with programs whose primary beneficiaries are Native Americans. In a sense, tribes that have successfully compacted most BIA and IHS functions can do much more than Congress can in encouraging greater levels of contracting by tribes that might be reluctant to do so. I hope the Subcommittee on Indian and Alaska Native Affairs can contribute to the success in the Indian Self-Determination and Education Assistance Act by serving as a forum for tribal leaders to highlight the successes of this law and what might be done to increase contracting and compacting opportunities. ”

## \$1.2 Trillion in Automatic Spending Cuts Looming

The bicameral Joint Committee on Deficit Reduction, established by the *Budget Control Act* (Pub.L. 112-25), failed to reach an agreement on a proposal to reduce the federal deficit by \$1.2 trillion over ten years. This failure means that unless Congress and the President reach agreement in the "Lame Duck" session of the 112th Congress, across-the-board spending cuts of \$1.2 trillion, \$984 billion in budget cuts and \$216 billion in reduced interest payments, are automatically triggered and will take effect on January 2, 2013.

The spending cuts will be divided evenly between defense and non-defense discretionary programs: \$54.7 billion in defense cuts per year, and \$54.7 billion in non-defense discretionary spending cuts per year. The spending cuts will apply to Indian-related discretionary programs, including education, housing, transportation, and public safety.

Social Security, Medicaid, Supplemental Nutrition Assistance Program, child nutrition, *Pigford* and *Cobell* settlement payments, veterans and civil and military pay will not be affected. Medicare cuts of 2 percent would only affect payments to providers and insurance plans, not beneficiaries. In addition, community and migrant health centers, including Indian health services and facilities are limited to 2 percent funding cuts.

In addition, the *Budget Control Act* places statutory caps on discretionary spending for Fiscal Years 2012 through 2021 that would save approximately \$935 billion over the next decade. The discretionary spending cap for Fiscal Year 2013 is \$1.047 trillion.

# Drinker Biddle

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Second year in a row, the Indian Tribal Governments Practice at Drinker Biddle is now ranked Band 1 by *Chambers USA 2012* and is recommended for both client service and commercial awareness. Additionally, partners Paul Moorehead and Kevin Wadzinski are ranked in Band 1, and partner Brian Gunn is ranked Band 3.

The Indian Tribal Governments Practice at Drinker Biddle & Reath provides a full range of legal and federal legislative services pertaining to tribal governments, tribal organizations and gaming-related businesses in every region of the United States. For more information, visit our website at [www.drinkerbiddle.com](http://www.drinkerbiddle.com).