INDIAN COUNTRY
BUDGET REQUEST

Honoring the Promises:
The Federal Trust Responsibility in the 21st Century

FY2012
Congress and the Obama Administration will begin deliberations on the FY2012 federal budget following one of the most significant years of bipartisan accomplishments for Indian Country in recent memory. In 2010, the U.S. government took historic steps to address numerous long-standing challenges facing Indian Country. Last year, Congress made permanent the Indian Health Care Improvement Act (IHCIA) and President Obama signed into law the Tribal Law & Order Act (TLOA). But, like other laws, TLOA and IHCIA will not mean much if they are not implemented, and effective implementation is contingent upon adequate federal funding for the recently authorized programs. The U.S. Department of Agriculture settled the long-standing Keepseagle case and the president signed into law the Cobell Settlement, closing the chapter on more than a century of government mismanagement of Indian assets. This moment presents the federal government with an extraordinary opportunity to further tribal self-determination and honor the promises of the federal trust responsibility.

Tribal leaders look to the upcoming fiscal year with great anticipation for honorable fulfillment of federal trust, treaty, moral, and statutory obligations to tribes in the 21st century. The FY2012 federal budget presents a fresh opportunity for the U.S. government to live up to the promises made to tribes in the treaties signed, statutes enacted, and contracts agreed to between the tribes and federal government over the centuries.

See page 100 of this report for a Summary Table of NCAI FY2012 Budget Requests.

Public Safety and Justice

In recent years, tribal leaders from across the nation have highlighted the shortcomings in the current justice system in numerous formal consultations, informal dialogues, conference calls, meetings, and congressional hearings surrounding issues of public safety and justice in Indian Country. They have emphasized that the current lack of resources for law enforcement on Indian lands poses a direct threat to Native citizens and the future of Indian Country.

The recent passage of the Tribal Law & Order Act (TLOA) is proof that their words have not fallen on deaf ears. TLOA will not meet its intended goals if the Act is not fully implemented. This requires adequate federal funding for TLOA-authorized programs, as well as full funding of other critical tribal justice programs that will support the overarching TLOA vision of comprehensive law enforcement reform.

- Fully fund all of the provisions of the Tribal Law & Order Act of 2010 that authorize additional funding for law and order programs that affect Indian tribes, both for FY2012 and for the future.

  - Increase funding for Bureau of Indian Affairs (BIA) law enforcement by at least $30 million over FY2010 funding levels, including an increase in funds for officer recruitment and training, and for tribal detention facilities operations and maintenance.
• Increase funding for the Federal Bureau of Investigation (FBI) Indian Country activities by at least $20 million to provide at least 50 new FBI agents tasked with investigating violent crimes within Indian Country, as well as the forensic support for those investigations.

• Continue to fully fund the 33 new Indian Country Assistant United States Attorney positions created in FY2010.

• Create a 7 percent tribal set-aside from all discretionary Office of Justice Programs (OJP), while at the same time ensuring that those funds are allocated in an equitable manner and that each formerly separate program area receives funding at or above FY2010 funding levels, including tribal courts and jails construction, legal assistance, juvenile delinquency prevention, and substance abuse prevention.

• Increase funding of tribal law enforcement programs under the Department of Justice’s Community Oriented Policing Services (COPS) Grants program by at least 50 percent over the level proposed in the president’s FY2011 budget request.

• Maintain the authorized level of funding for the tribal programs under the Violence Against Women Act (VAWA), including the Grants to Indian Tribal Governments program, which funds initiatives to combat domestic violence and sexual assault in Indian Country.

• Provide $500,000 for a new Indian Country Sexual Assault Clearinghouse and $500,000 for regional summits in Indian Country that would provide training on the prosecution of cases involving violence against Native women.

• Increase the amount of money set aside for Analysis and Research on Violence Against Indian Women from $1 million to $3 million.

**Homeland Security** [More information on page 30]

Tribal governments have broad emergency and first-responder responsibilities, as well as extensive border security responsibilities, including enforcement activities to deal with illegal immigration, terrorism, and smuggling activities. Dozens of tribes have critical national infrastructure on their lands, including national oil pipelines, nuclear facilities, missile sites, and dams.

• Provide $20 million to enable tribal governments to work cooperatively with Department of Homeland Security (DHS) in developing tribal IDs.

• Provide $20 million annually in additional funding for tribal direct grants for the next five years.
Education

Indian nations have a huge stake in an improved education system. Investments in education prepare Native children for active and equal participation in the global market. Education policy must prepare Native children to be positive, involved members of their communities. Most importantly, an investment in education equips the future leaders of tribal governments. There is no more vital resource to the continued existence and integrity of Indian tribes than Native children.

- Provide $198.4 million for Title VII funding under the No Child Left Behind Act.
- Provide $1.329 billion for Impact Aid, Title VIII funding under the No Child Left Behind Act.
- Provide $10 million to fund Tribal Education Departments (TEDs).
- Provide $263.4 million for Indian school construction and repair.
- Provide $72.3 million for Tribal Grant Support Costs.
- Provide $73 million for student transportation.
- Increase facilities accounts to $109.8 million in facilities operations and $76 million in facilities maintenance.
- Provide $431 million for the Indian School Equalization Formula (ISEF).
- Provide $24.3 million to fully restore funding to Johnson O’Malley.
- Provide $36 million for Title III-A grants under the Higher Education Act.
- Provide $92.4 million for Title I under the Tribally Controlled Colleges and Universities Assistance Act.
- Provide $10 million for the 1994 Extension Program for Tribal Colleges and Universities.
- Provide $5 million for the 1994 Institutions’ Research Grants.
- Provide $5 million in Educational Equity Grant Program funding for the 1994 land grant institutions.
- Provide $130 million in funding for the 1994 Native American Endowment Account.
- Provide $5 million in Essential Community Facilities Program funding.
- Provide a $10 million increase in Indian Head Start funding.
- Provide $57 million to fund the Esther Martinez Language Programs through the Administration for Native Americans, Administration for Children and Families.
Indian Country won a substantial victory in 2010 with the passage and permanent reauthorization of the Indian Health Care Improvement Act (IHCIA) as part of the Patient Protection and Affordable Care Act (PPACA). Indian Country seeks to ensure that the Indian health care delivery system is strengthened so that Indian people and Indian health programs benefit from reformed systems. In order to achieve these results, fundamental components are necessary to fully implement IHCIA and PPACA in Indian Country. Without them, the Indian health care delivery system will be severely hampered, and the rights of Indian people and our sovereign governments will be undermined. Indian health care providers, who form a crucial system of care in some of the most remote communities in the country, must receive the funding necessary to operate Indian Health Service (IHS) facilities and fund community-based programs on which tribal communities rely.

- Provide a $735 million increase to Indian Health Service funding.
- Provide $15 million to fund Substance Abuse and Mental Health Services Administration (SAMHSA).
- Provide a $6 million tribal set-aside for American Indian suicide prevention programs under the Garrett Lee Smith Act.

**Human Services**

**CHILD WELFARE**

American Indian and Alaska Native children are disproportionately represented in foster care in the United States at a rate that is two to three times the national average. Given the high incidence of out-of-home placements for American Indian and Alaska Native children and the high risk these children generally have for entering the child welfare system, tribal governments need adequate financial resources to help protect children and programs designed with flexibility. Tribes need to be able to design and implement programs to best meet community needs.

- Provide funding for Children’s Bureau foster care demonstration grants at $20 million, and track tribal awards.
- Increase the tribal allocation of Title IV-B, Subpart 1 by creating a 3 percent set-aside from the total appropriation.
- Provide $200 million for Title IV-B, Subpart 2, the full amount authorized for the discretionary component of the program, which will benefit tribes and states.
• Provide a separate line-item for tribal Title II grants. Set aside 3 percent of total funding for tribes and tribal consortia.

• Increase funding for the Indian Child Welfare Act (ICWA) by $45 million to $70 million for tribes and tribal consortia.

• Re-establish the Urban Indian Child Welfare Grant Program under ICWA and fund at $12 million.

• Increase Bureau of Indian Affairs Child Welfare Assistance funds to $55 million.

DISABILITIES
According to the U.S. Census, 24 percent of American Indians and Alaska Natives have a disability. This creates an extraordinary need for funding so that tribes can help their disabled citizens become self-sufficient.

• Increase Vocational Rehabilitation Services Projects to $67 million, and create a line-item of $5 million for providing outreach to tribal recipients.

ELDERS
In tribal communities, elders are considered the “wisdom-keepers” and are held in the highest regard. Unfortunately, these elders comprise the most economically disadvantaged elderly minority in the nation. American Indian and Alaska Native elders are at a growing risk of financial exploitation and neglect. Sufficient funds must be made available to provide “comparable services” to Native elders.

• Provide $30 million for Parts A (Grants for Native Americans) and B (Grants for Native Hawaiians) of the Older Americans Act.

• Provide $7.2 million for Part C (Native American Caregiver Support Program), and create a line-item for training for tribal recipients.

• Create a tribal set-aside of $2 million under Subtitle B of Title VII.

• Provide $3 million for national minority aging organizations to build the capacity of community-based organizations to better serve minority senior Americans.
**Economic Development**  MORE INFORMATION ON PAGE 53

Native nations continue to work toward self-determination and self-sufficiency, despite the fact that federal resources for entrepreneurial development have been insufficient and targeted elsewhere. With unemployment reaching an average of 50 percent and sometimes as high as 80 percent on reservations, it is critical to invest in economic development opportunities for tribal communities. Economic development programs spur community growth, provide job opportunities, and increase quality of life.

- Increase Minority Business Development Agency funding by $35 million to $35 million.
- Fund the Office of Native American Affairs at $3 million as part of the Commerce Departmental Management budget.
- Fund the Small Business Administration’s (SBA) Office of Native American Affairs at $2 million.
- Fund Native American Business Center Grants in SBA at $10 million.
- Provide at least $1 million within the SBA’s Business Development Program for SBA Consultations on and Implementation of 8(a) Improvements.
- Increase Native Community Development Financial Institutions (CDFI) funding up to 10 percent and at least $15 million in FY2012.
- Fund the Office of Indian Energy and Economic Development in the Department of the Interior at $5 million.
- Fund the Indian Loan Guarantee Program in the Department of the Interior at $15 million.
- Fund the American Indian Procurement Technical Assistance Centers at $3.6 million within $31 million.
- Fund the 5 percent Indian Incentive Payment Program in the Department of Defense at $15 million.
**Telecommunications**  
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While tribal communities still lag behind the rest of the United States in access to radio, wireless, and broadband services, tribes made remarkable gains in telecommunication policy in 2010: tribal priorities were included in the National Broadband Plan and tribes received priority access to broadcast licensing. These gains are a critical foundation for meaningful participation in future broadband and telecommunications policy. With the current low rate of telephone, radio, and broadband service in tribal communities, the following recommendations will provide funding to increase access to telecommunications services throughout Indian Country.

- Provide $1.5 million to fund the newly created Office of Native Affairs and Policy in the Federal Communications Commission.
- Appropriate $4 million for construction of American Indian radio stations through the Public Telecommunications Facilities Program in the Department of Commerce.
- Appropriate $5 million for funding American Indian radio stations in the Corporation for Public Broadcasting.
- Fully fund the authorized amount of $25 million for Broadband Access in the Department of Agriculture, with a substantial percentage toward tribal areas.

**Agriculture**  
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Agriculture is a fast growing sector in Indian Country. It is the second leading employer in Native communities and is the backbone of the economy for about 130 tribes. Tribal governments are recognizing that U.S. Department of Agriculture (USDA) services reach beyond agriculture, as they serve not only farmers and ranchers, but tribal governments, natural resource managers, youth, colleges, water infrastructure providers, energy suppliers, and communities. Indian Country looks forward to greater collaboration with USDA and synergies across their programs best suited to each tribe’s circumstances.

- Increase the Federally Recognized Tribal Extension Program (FRTEP) by $15 million.
- Increase the Risk Management Agency’s (RMA) Community Outreach and Assistance Partnership Program by $6.05 million.
- Provide $10 million for the Rural Development Business and Industry Loan Program.
Tribal peoples have close spiritual, cultural, practical, and interdependent relationships with their homelands and natural resources. As such, they also face the direct and often disproportionate impacts of environmental degradation, contamination, and climate change. To preserve and enhance the environmental quality of Indian Country for present and future generations and to sustain tribal cultures, tribes require equitable funding for their environmental programs. As sovereign entities, tribes can set environmental quality standards, make environmental policy decisions, and manage programs consistent with the Environmental Protection Agency’s (EPA) Indian Policy.

- Authorize and appropriate $30 million for the Multimedia Tribal Implementation Grants Program within EPA.
- Provide $32 million for EPA Tribal Water Pollution Control.
- Provide $12 million for the EPA Nonpoint Source Pollutant Control program.
- Provide $5 million for the EPA Wetlands Program.
- Provide a minimum of $67.2 million or a 3 percent tribal set-aside for the EPA Clean Water and Drinking Water State Revolving Funds (SRFs).
- Provide $1 million for the EPA Operation and Maintenance (O&M) Funding for Tribal Public Water Systems.
- Provide $1 million for the Border Environmental Infrastructure Fund.
- Provide $1 million for the EPA Underground Injection Control tribal set-aside.
- Provide an increase of $26 million for Alaska Native villages to conduct science/research activities and to address climate change impacts.
- Set aside 10 percent of Information Exchange Network funding for tribes.
- Provide $75 million for institutional capacity building and environmental management in the EPA Indian Environmental General Assistance Program.
- Provide $4 million to enable tribes to develop and implement solid and hazardous waste programs under EPA.
- Provide $5 million for Direct Implementation Tribal Cooperative Agreements for effective and efficient on-the-ground environmental protection.
- Provide $14 million in Clean Air Act Section 103/105 grants to tribes.
Natural Resources

The vitality of natural resources is integral to the health of American Indian and Alaska Native communities, cultures, sustenance, and economies. The ecological practices tribal peoples have cultivated for millennia are inherently time-tested, sustainable, and practical. As such, they are gaining increasing validation by the larger society as valuable tools in efforts to protect natural resources and address climate change. Simultaneously, because tribes rely deeply upon their natural resources, the effects of climate change are disproportionate and profound.

For centuries and to this day, the value of tribal ecological knowledge and natural resources to tribal peoples and the nation have not been matched with tangible support. Now is the time to match that support, as climate impacts proliferate.

- Provide $15 million in funding for the Climate Change Adaptation Initiative in Department of the Interior (DOI).
- Restore funding to the FY2003 level of $8.298 million for the BIA Water Management, Planning and Pre-Development Program.
- Restore funding to the FY2003 level of $10.923 million for the BIA Water Rights Negotiation/Litigation Program.
- Provide $20 million for base and programmatic funding of the BIA Tribal Management and Development (TMD) Programs.
- Increase funding for BIA Fish Hatchery Maintenance by $2.148 million to $5 million.
- Increase funding for BIA Fish Hatchery Operations by $1.5 million.
- Increase the Wildlife and Parks Tribal Priority Allocation to $20 million.
- Increase funding to $20 million for BIA Natural Resources Tribal Priority Allocations.
- Increase funding to $49.5 million for BIA Rights Protection Implementation.
- Provide $5 million in funding for the BIA Invasive Species Program.
- Provide $8 million in funding for the Fish and Wildlife Service’s Tribal Wildlife Grants Program.
- Provide $31.2 million in BIA Forestry Tribal Priority Allocations.
- Provide $23.6 million for BIA Forestry Projects.
- Maintain funding at $3 million for the Great Lakes Restoration Initiative.
Energy

Though tribal lands contain 10 percent of the nation’s traditional and clean energy resources, tribal governments face mounting challenges in their efforts to contribute to national priorities related to energy independence, clean energy, economic development, and job creation. The development of tribal energy, and tribal participation in energy efficiency programs, will have significant positive impacts for tribes and surrounding communities. To ensure the economic vitality of Indian Country and the nation as a whole, the federal government must provide Indian Country with opportunities to develop their energy resources by removing barriers and providing equitable access to federal programs.

- Provide $10 million for Office of Indian Energy Policy and Programs in the Department of Energy (DOE).
- Fund the DOE Tribal Energy Program at $20 million.
- Provide authority to reduce or waive tribal cost shares in DOE.
- Eliminate the $6,500 fee for the application for a permit to drill in Indian Country in the Bureau of Land Management.
- Increase the DOE Energy Efficiency and Conservation Block Grant Program tribal set-aside to 3 percent.
- Establish a 5 percent tribal set-aside in the DOE Weatherization Program (Wx).
- Provide $50 million for the DOE Indian Energy Project Loan Guarantee Program.
- Provide $5 million in capacity-building assistance to Indian tribes for purposes of negotiating and implementing Tribal Energy Resource Agreements (TERAs) in Department of the Interior (DOI).
**Housing**  
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While significant strides have been made in recent years, Indian tribes, Alaska Native communities, and Native Hawaiians still face some of the most deplorable housing and socioeconomic conditions in the United States. Despite some improvements and sizable investments in Indian housing as part of the American Recovery and Reinvestment Act, Native households face demonstrable ongoing needs and sustained federal investment to close the gap is essential.

- Fund the Department of Housing and Urban Development (HUD) Indian Housing Block Grant at $875 million.
- Fund the Indian Community Development Block Grant at $100 million.
- Fund Title VI at $2 million.
- Fund the Section 184 Program at $9 million.
- Fund NAHASDA’s Training and Technical Assistance at $4.8 million.
- Fund Title VIII’s Native Hawaiian Housing Block Grant at $20 million.

**Transportation**  
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Tribes must have transportation infrastructure that permits safe travel and promotes economic development. Transportation infrastructure is critical to linking people within tribal communities and to other surrounding areas in order to strengthen economic development and improve the delivery of tribal government services.

- Provide $800 million for the Indian Reservation Roads Programs.
- Provide $75 million for the Indian Reservations Roads Bridge Program.
- Provide $4.2 million for Tribal Technical Assistance Programs.
- Provide $35 million for the Tribal Transit Program.
- Provide $150 million for the BIA Road Maintenance Program.
**Historic and Cultural Preservation**  
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As part of the inherent rights of self-governance and self-determination, tribes directly manage preservation, maintenance, and revitalization efforts in order to maintain culture and traditions. Tribal nations also have the rights to control their ancestors’ remains and sacred cultural items.

- Provide $4 million for Section 10 of Native American Graves Protection and Repatriation Act (NAGPRA), and create a line-item for grants for the purpose of working with culturally unidentifiable remains.

- Provide a 10 percent increase for investigations into failure to comply with NAGPRA, and create a line-item for investigations of museum complaints made by tribes.

- Provide $15 million for the Tribal Historic Preservation Officer Program.

**Support for Tribal Governments**  
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Contract Support Costs (CSC) at BIA and IHS and Tribal Grant Support Costs (TGSC) for Tribally Operated Schools directly support the governmental functions of tribes. Failure to fully fund CSC and TGSC penalizes tribes in the exercise of their self-determination rights under the law. Steady funding is necessary for tribes to fulfill their role as governments.

- Increase IHS Contract Support Costs by $100 million, for a total of $543 million.

- Increase BIA Contract Support Costs by $50 million, for a total of $212 million.

- Provide $72.3 million for Tribal Grant Support Costs (formerly Administrative Cost Grants).
See page 100 of this report for a Summary Table of NCAI FY2012 Budget Requests.
Honoring the Promises:
THE FEDERAL TRUST RESPONSIBILITY IN THE 21ST CENTURY

Congress and the Obama Administration will begin deliberations on the FY2012 federal budget following one of the most significant years of bipartisan accomplishments for Indian Country in recent memory. In 2010, the U.S. government took historic steps to address numerous long-standing challenges facing Indian Country. Last year, Congress made permanent the Indian Health Care Improvement Act (IHCIA) and President Obama signed into law the Tribal Law & Order Act (TLOA). But, like other laws, TLOA and IHCIA will not mean much if they are not implemented, and effective implementation is contingent upon adequate federal funding for the recently authorized programs. The U.S. Department of Agriculture settled the long-standing Keepseagle case and the president signed into law the Cobell Settlement, closing the chapter on more than a century of government mismanagement of Indian assets. This moment presents the federal government with an extraordinary opportunity to further tribal self-determination and honor the promises of the federal trust responsibility.

Tribal leaders look to the upcoming fiscal year with great anticipation for honorable fulfillment of federal trust, treaty, moral, and statutory obligations to tribes in the 21st century. The FY2012 federal budget presents a fresh opportunity for the U.S. government to live up to the promises made to tribes in the treaties signed, statutes enacted, and contracts agreed to between the tribes and federal government over the centuries.
**Trust Responsibility**

At the president’s second annual Tribal Nations Summit in 2010, tribal leaders raised a recurring theme throughout the meeting. Indian Country leaders emphasized the importance of meeting the government’s basic responsibilities in funding for trust, treaty, and statutory obligations to Indian tribes and programs in FY2012 and future fiscal years. The Administration must request and Congress must fund their trust obligations in a way that acknowledges the tribes’ capabilities and enables tribes to meet their governmental responsibilities as important members of the American family of governments.

The relationship between the tribes and the federal government is based on legal promises and commitments. Through treaties, agreements, and a long history of dealings, vast regions of Indian lands were ceded to the United States, and in return the tribes received promises for protection of Indian lands; protection of tribal self-governance; and provision of social, medical, and educational services for tribal citizens. Federal investments to fulfill the trust responsibility are legal and moral commitments.

Tribal governments have the power and authority to determine their own governance structures, pass laws, and enforce laws through their police departments and tribal courts. The federal funding that goes to Indian issues in every relevant program area—from education and public safety to infrastructure and health care—lags behind the average for the rest of the United States. This trend was documented in the 2003 U.S. Civil Rights Commission report, “A Quiet Crisis.” Tribes lack the same resources available to other governments to provide for the public safety and welfare of their citizens.

Recent trends in Indian program funding show that federal resources that fulfill the trust responsibility must be protected and exempt from cuts and rescissions. The core funding used by tribal governments to deliver services is provided through the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS). Figure 1 shows that of the six largest agencies at the Department of the Interior, funding for the BIA increased the least from FY2004 to FY2011. The increase is so small that it actually represents a funding decrease after accounting for inflation.
Figure 1: Funding Percent Change for Interior Agencies, FY2004–FY2011

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$ IN THOUSANDS

**Bureau of Indian Affairs Funding History**

Figure 2 shows the funding provided for core tribal governmental programs through the BIA from FY1975 through FY2010 adjusted for inflation. The considerable fluctuations in federal funding that supports tribal governments and Indian programs have prevented tribes from taking full advantage of the Indian Self-Determination and Education Assistance Act.

**Figure 2: BIA Funding, FY1975-FY2009, In Constant 1996 Dollars**

Overall Per Capita vs. Indian Per Capita Expenditures

Tribes are eligible for other grant programs throughout the federal government, and, on a per capita basis, spending on American Indians and Alaska Natives has not increased at the same rate as for the overall population (see Figure 3).

These factors, combined with the federal government’s long-standing obligation and commitment to empower tribal governments to become self-governing and self-reliant, make it imperative that funding for essential core programs intended to advance and implement these statutory commitments to the 565 federally recognized tribes be protected and exempt from cuts and rescissions.
Example of Natural Resources Funding Trends

In one region, the Northwest Indian Fisheries Commission (NWIFC) and member tribes have undertaken more management responsibilities, but the corresponding federal funding has failed to match those responsibilities. Tribes perform basic management functions that are required under U.S. v. Washington to assure the protection of off-reservation fishing, hunting, and gathering rights. Tribes provide for enforcement, catch monitoring and accounting, fishermen and vessel identification, harvest management, and population monitoring and research. Figure 4 shows base funding for these activities from FY1978 to FY2010 and the corresponding management responsibilities for those years.

Figure 4: NWIFC & Member Tribes Base Funding (1978 to 2010)
Economic Conditions in Indian Country

Before the recession in 2007, tribes had made tremendous progress under the federal policy of Indian self-determination in reversing decades of poverty and unemployment. An analysis of socioeconomic change between 1990 and 2000 showed that Indian Country economies grew at a faster pace than the U.S. economy as a whole.10 Tribal leaders attribute this success to investments in self-government and the building up of such institutions as police departments, health clinics, education departments, infrastructure, and court systems. However, Indian Country has been hit especially hard by the recession, according to an analysis by the Economic Policy Institute (see Figure 5). From the first half of 2007 to the first half of 2010, the American Indian unemployment rate nationally increased 7.7 percentage points to 15.2 percent, which was an increase 1.6 times the size of the white increase. Indian people are still among the most vulnerable in tough economic times.

Figure 5: American Indian/Alaska Native (AI/AN) and White Unemployment Rates, 2007-2010

According to the U.S. Census Bureau’s most recent five-year estimates, the poverty rate for American Indian families living on reservations was more than three times the rate for the rest of the country. Figure 6 shows the percentage of American Indian and Alaska Native families living in poverty compared with the percentage of all families in poverty.

**Figure 6: Percentage of American Indian and Alaska Native (AI/AN) Families Living in Poverty Compared to Total U.S. Families in Poverty: 2005-2009**

![Figure 6: Percentage of American Indian and Alaska Native (AI/AN) Families Living in Poverty Compared to Total U.S. Families in Poverty: 2005-2009](image)


**Conclusion**

The recommendations in this FY2012 Indian Country budget request are based on honoring the legal promises and commitments between American Indian and Alaska Native tribal governments and the United States through the federal trust relationship. Federal investment in tribal sovereignty and self-determination is an investment in the tribes’ ability to work in partnership with the rest of the nation toward an equitable and robust recovery for all Americans. Below are government-wide recommendations followed by specific funding requests by program.
Government-Wide Recommendations

CREATE AN OFFICE OF INDIAN TRUST AND TREATY OBLIGATIONS WITHIN THE OFFICE OF MANAGEMENT AND BUDGET (OMB)

Tribal leaders emphasized at the 2010 White House Tribal Nations Conference that improving the relationship with OMB was a top concern. Even in tough budget times, funding for tribes must be held harmless. The lion’s share of trust obligations are funded through the Department of the Interior, Bureau of Indian Affairs, and the Department of Health and Human Services, Indian Health Service. However, other programs serving Indian Country are administered through many other government agencies. The creation of an Office of Trust and Treaty Obligations within OMB would assist in coordinating federal funding for tribal trust obligations across the federal government.

HOST A GOVERNMENT-WIDE SUMMIT WITH TRIBES AND OMB

In December 2010, members of the Tribal/Interior Budget Council recommended a meeting or conference with tribal representatives and representatives from OMB and relevant government agencies to address government-wide federal funding for Indian programs in light of the federal trust relationship.

HOLD INDIAN PROGRAMS HARMLESS IN FY2012

Tribal programs have endured tremendous fluctuations in recent decades. Tribes should receive at least the same level of resources that are provided to state and local governments to meet the needs of their citizens and to fulfill the sacred trust responsibility. The FY2012 Indian Country Budget Request document contains specific recommendations for tribal programs, but NCAI requests that in FY2012, Indian programs should, at least, be held harmless and exempted from across-the-board rescissions.
The various public safety problems that plague tribal communities are not new. They are the result of decades of gross underfunding for tribal criminal justice systems, a painfully complex jurisdictional scheme involving jurisdiction by the federal, state, and/or tribal governments, and a centuries-old failure by the federal government to fulfill its public safety obligations on Indian lands.

The Major Crimes Act, General Crimes Act, and other federal laws codify the duty of the federal government to investigate and prosecute most crimes committed on Indian lands, yet many reservations still suffer from severe and ongoing crime and violence. Indian reservations nationwide have violent crime rates that are more than 2.5 times the national rate. More than one in three American Indian and Alaska Native women will be raped in her lifetime, yet U.S. attorneys decline to prosecute approximately 50 percent of all Indian Country cases referred to them. Congress and the Department of Justice (DOJ) have acknowledged that meeting this responsibility includes empowering and funding tribal justice systems, which serve as the most appropriate forums for ensuring public safety and maintaining law and order at a local level.

In recent years, tribal leaders from across the nation have highlighted the shortcomings in the current justice system in numerous formal consultations, informal dialogues, conference calls, meetings, and congressional hearings surrounding issues of public safety and justice in Indian Country. They have emphasized that the current lack of resources for law enforcement on Indian lands poses a direct threat to Native citizens and the future of Indian Country.

Public Safety and Justice
The recent passage of the Tribal Law & Order Act (TLOA) is proof that their words have not fallen on deaf ears. Congress and the Obama Administration have heard the concerns of Indian people and attempted to address them in this new law. TLOA takes a comprehensive approach to empowering tribal and federal agencies responsible for investigating and prosecuting reservation crime. The Act provides tribes with additional tools to combat crime locally and allows for increased evidence sharing and federal declination data recording, access to national criminal history records, improved tribal court sentencing, and deputization of either federal or tribal agents as the situation requires. It also establishes, amends, and reauthorizes various programs and offices within DOJ and Bureau of Indian Affairs (BIA) – Office of Justice Services to support the criminal justice system on Indian lands.

TLOA will not meet its intended goals if the Act is not fully implemented. This requires adequate federal funding for TLOA-authorized programs, as well as full funding of other critical tribal justice programs that will support the overarching TLOA vision of comprehensive law enforcement reform. Increased and targeted funding in the following program areas will help combat the violent crime epidemic on Indian lands and strengthen tribal justice systems for future generations. Native Americans—like all Americans—deserve to live free of fear in their communities, where their basic rights are protected and they can trust the justice system that serves them.

**Key Recommendations**

**Shared Responsibility:**

DEPARTMENTS OF THE INTERIOR, JUSTICE, AND HEALTH AND HUMAN SERVICES

*Commerce, Justice, Science; Labor, Health and Human Services, Education; and Interior, Environment Appropriations Bills*

**Tribal Law & Order Act**

- Fully fund all of the provisions of the Tribal Law & Order Act of 2010 that authorize additional funding for law and order programs that affect Indian tribes, both for FY2012 and for the future.

TLOA takes a comprehensive approach to improving public safety on Indian reservations and reforming the entire justice system in Indian Country—including prevention, law enforcement, courts, detention, and rehabilitation. Passage of TLOA creates momentum for improving law enforcement on Indian reservations, but this effort cannot succeed without effective implementation and adequate funding. Partial funding for TLOA-authorized programs is unacceptable. Investment in tribal justice systems must be substantial and must happen now. The safety of American Indians, Alaska Natives, and all Americans depends on it.
Shared Responsibility:

DEPARTMENTS OF THE INTERIOR AND JUSTICE

Commerce, Justice, Science and Interior, Environment Appropriations Bills

Law Enforcement

- Increase funding for BIA law enforcement by at least $30 million over FY2010 funding levels, including an increase in funds for officer recruitment and training, and for tribal detention facilities operations and maintenance.

More than 200 tribal police departments, ranging from small departments with only two officers to those with more than 200 officers, help maintain public safety on the more than 50 million acres of land that comprise Indian country. Tribal law enforcement officers are usually the first responders to crime scenes on Indian lands, but their current funding lags well behind that of their non-tribal counterparts.

BIA conducted an analysis of law enforcement staffing in Indian Country in 2006 and found that Indian Country has 2,555 law enforcement officers but needs a total of 4,409, resulting in a gap of 1,854 officers, or a 42 percent unmet staffing need. According to the Bureau of Justice Statistics, the police-to-citizen ratio nationwide is 367 full-time employees per 100,000 residents. Virtually no tribal police department has more than two officers per 1,000 residents—half the national police-to-citizen ratio. To put this in perspective, Indian Country law enforcement officers patrol approximately 2 percent of the landmass of the United States and 1 percent of the population but only represent 0.004 percent of the total of 675,734 state, city, and county law enforcement officers in the United States.

The past year has seen commendable improvements, as the Interior Department has increased the number of police officer recruits by 500 percent. The department also recently launched an intense policing program on four reservations, a program it hopes to expand in the next year. These types of efforts can make a real difference on the ground level provided there is funding available to pursue them.

- Increase funding for the Federal Bureau of Investigation (FBI) Indian Country activities by at least $20 million to provide at least 50 new FBI agents tasked with investigating violent crimes within Indian Country, as well as the forensic support for those investigations.
- Continue to fully fund the 33 new Indian Country Assistant United States Attorney positions created in FY2010.

Given the geographical remoteness of many Indian reservations, they are a prime target for international drug trafficking organizations that increasingly exploit these lands not only to smuggle illicit drugs but also to produce and cultivate them. These activities invite corruption, violence, drug abuse, and gang activity into tribal communities and place an already vulnerable population at greater risk.

The federal government’s failure to make addressing crime in tribal communities a priority has compounded the problem. Given the complex jurisdictional scheme on Indian lands, a disproportionate
number of Indian Country cases are investigated and prosecuted by federal law enforcement officials. Funding for additional FBI agent positions, whose sole job would be to focus on investigating crimes on Indian reservations, would go a long way toward addressing both the perception and the reality of lawlessness that exist in some tribal communities. The BIA and DOJ Native American Issues Subcommittee has already indicated that adding more agents is a priority. This personnel enhancement would enable the FBI to be more proactive in its approach to addressing crime on reservations.

The DOJ’s recent addition of 33 new Indian Country Assistant United States Attorney positions in response to tribal concerns about high prosecution declination rates in Indian Country is encouraging. Tribal leaders urge continued funding for these new positions and expect that these additions will make the federal justice system more responsive to the needs of Indian people.

**DEPARTMENT OF JUSTICE**

**Commerce, Justice, Science Appropriations Bill**

**Tribal Grants**

- Create a 7 percent tribal set-aside from all discretionary Office of Justice Programs (OJP), while at the same time ensuring that those funds are allocated in an equitable manner and that each formerly separate program area receives funding at or above FY2010 funding levels, including tribal courts and jails construction, legal assistance, juvenile delinquency prevention, and substance abuse prevention.

The DOJ provides funding to state, local, and tribal governments to supplement their justice systems for a broad array of activities, ranging from courts to corrections to juvenile justice. DOJ holds specific legal obligations to provide for public safety on Indian lands through the various federal laws, treaties, and a general course of dealing with tribal governments. The U.S. Supreme Court acknowledged this obligation in *U.S. v. Kagama*.

DOJ funding levels to support tribal justice systems and improve reservation public safety have not met these solemn obligations. For example, FY2000 funding for tribal justice programs relating to courts, police hiring and equipment, jails, and juvenile justice was $91.5 million. Funding levels for these programs from FY2001 to FY2009 was below, and at times far below, the FY2000 level, reaching a low of $42 million in FY2006. Not until FY2010 did Congress appropriate funding above the FY2000 levels when it granted $159 million for these critical justice programs.

For FY2010, the Department of Justice for the first time issued a single Coordinated Tribal Assistance Solicitation (CTAS) for 10 of its tribal grant programs. This new solicitation attempted to streamline the application process for tribes, enabling them to submit a single application and select multiple purpose areas (ranging from juvenile justice to violence against women), as opposed to previous years in which they would have been required to submit multiple grant applications. However, this streamlined application model would benefit from an accompanying streamlined funding mechanism.
To accomplish this goal, the president’s FY2011 budget included a request for a 7 percent set-aside from all discretionary OJP for tribal criminal justice assistance. At press time, Congress had not yet made final decisions on FY2011 spending. NCAI urges Congress to grant this groundbreaking request that will provide systemic change and improvement to reverse decades of violence in Indian Country.

A 7 percent OJP tribal set-aside would not commit new funds to Indian Country; rather, it would streamline the federal funding process for tribal courts and jails construction, legal assistance, juvenile delinquency prevention, and substance abuse prevention. Tribes would have the flexibility to develop a detailed strategy to best meet the particular needs of the local tribal community. However, to ensure that those funds are allocated in an equitable manner and that no program area is overlooked, each formerly separate program area should receive funding at or above FY2010 funding levels.

- Increase funding of tribal law enforcement programs under the Department of Justice’s Community Oriented Policing Services (COPS) Grants program by at least 50 percent over the level proposed in the president’s FY2011 budget request.

As noted above, fewer than 3,000 tribal and Bureau of Indian Affairs police officers patrol more than 50 million acres of Indian lands, less than half the force needed to adequately police Indian country. This personnel deficiency means that victims of violence have to wait hours and in many cases days before receiving a response to a distress call. These delays compromise crucial evidence collection and ultimately result in failure to provide justice to the victim and the community.

To address this concern, the DOJ Tribal COPS program provides funding to tribal governments to hire and train new police officers, train existing police forces, and purchase new equipment, technology, vehicles, and other necessary law enforcement tools. The Tribal COPS program has become one of the primary resources available to tribal law enforcement agencies attempting to develop and maintain a fundamental policing infrastructure and upgrade outdated equipment.

**DEPARTMENT OF JUSTICE**

**Commerce, Justice, Science Appropriations Bill**

**Violence Against Native Women**

- Maintain the authorized level of funding for the tribal programs under the Violence Against Women Act (VAWA), including the Grants to Indian Tribal Governments program, which funds initiatives to combat domestic violence and sexual assault in Indian Country.
- Provide $500,000 for a new Indian Country Sexual Assault Clearinghouse and $500,000 for regional summits in Indian Country that would provide training on the prosecution of cases involving violence against Native women.
- Increase the amount of money set aside for Analysis and Research on Violence Against Indian Women from $1 million to $3 million.

Congress must not ignore the devastating impact that violence against women has on tribal communities. It is estimated that one in three Indian women will be raped and that six out of 10 will be physically assaulted in their lifetimes. This violence threatens the lives of Indian women and the future of American Indian tribes and Alaska Native villages. Ending this historic pattern of violence requires that the federal government fulfill its legal trust responsibility to support tribal governments in safeguarding their citizens’ lives. No area of need is more pressing or compelling than the plight of Native women and children fleeing physical and sexual violence.

When Congress unanimously reauthorized the Violence Against Women Act in 2005, the Act included a new title specifically focused on enhancing the safety of Native women. This was a major step forward. Now the current Administration must take the next step toward ending domestic violence and sexual violence by ensuring that the tribal provisions of VAWA are reauthorized and adequately funded in FY2012.

The Office of Violence Against Women is establishing a national clearinghouse on the sexual assault of Native women, which will provide a place where tribes can request free on-site training and technical assistance on an array of sexual assault-related topics, including development of tribal sexual assault and domestic violence codes, sexual assault forensic evidence collection training, and more. If fully funded, this has the potential to be a tremendous resource for tribes, law enforcement officials, medical professionals, and victim advocates.

Additionally, the president’s FY2011 budget requested $500,000 for DOJ to develop and sponsor regional summits regarding violence against women in Indian Country. These proposed summits would provide training on the investigation and prosecution of federal cases involving domestic violence, sexual assault, and stalking in Indian Country, and they would seek to enhance collaboration among all the entities charged with improving the safety of Indian women. This program should be fully funded in FY2012.

VAWA 2005 provided for a national baseline study on rates of violence against Indian women by the National Institute of Justice, as well as for a Center for Disease Control and Prevention study on the costs of injury to Indian women due to violence. Since that time, research progress has been made but a significant increase in funding is necessary to complete the studies and fulfill the goals of the statute. Appropriation of such funding is necessary in order to produce the educational tools necessary to guide the federal, state, tribal and local response to the epidemic of violence against women.
Homeland Security

Tribes are an integral component in our country’s homeland security infrastructure, which makes it perilous to abandon funding in this area. Nearly 40 tribes are located directly on or near the borders that the United States shares with Mexico and Canada. Hundreds of tribal governments are the only major governmental presence in rural and isolated locations, serving as the first and oftentimes only law enforcement authority and emergency responders for Native and non-Native communities. Tribal governments have broad emergency and first-responder responsibilities, as well as extensive border security responsibilities, including enforcement activities to deal with illegal immigration, terrorism, and smuggling activities. Dozens of tribes have critical national infrastructure on their lands, including national oil pipelines, nuclear facilities, missile sites, and dams.

Key Recommendations

DEPARTMENT OF HOMELAND SECURITY (DHS)
Homeland Security Appropriations Bill
Western Hemisphere Travel Initiative
• Provide $20 million to enable tribal governments to work cooperatively with DHS in developing tribal IDs.

Tribal governments face the cost-prohibitive unfunded mandate to comply with the Western Hemisphere Travel Initiative for enhanced tribal ID cards. Funding for these tribal ID cards will enable tribal government officials and citizens to continue to cross borders in accordance with longstanding treaty rights and agreements and enter into federal offices where they regularly conduct business.

DEPARTMENT OF HOMELAND SECURITY
Homeland Security Appropriations Bill
Tribal Homeland Security Direct Grants
• Provide $20 million annually in additional funding for tribal direct grants for the next five years.

This appropriation will enable tribes to fulfill the crucial role of first responders and border security officials in a broad array of key jurisdictions throughout the nation.
Indian nations have a huge stake in an improved education system. Investments in education prepare Native children for active and equal participation in the global market. Education policy must prepare Native children to be positive, involved members of their communities. Most importantly, an investment in education equips the future leaders of tribal governments. There is no more vital resource to the continued existence and integrity of Indian tribes than Native children.

Over the past decade, funding for tribal education programs has stagnated or been significantly reduced. If these cuts to Native education are not reversed, Native children and communities will fall even further behind the overall U.S. population. In 2009, more than half of eighth-grade American Indian and Alaska Native students that attended Bureau of Indian Education (BIE) schools reported that they planned to go to college full time in their first year after high school. Increased investment in education must occur to help these students—historically underrepresented in higher education—achieve their dream of going to college.
In the context of the upcoming reauthorization of the Elementary and Secondary Education Act, federal policy must invest sufficiently for tribes to exercise sovereignty over education programs serving American Indian and Alaska Native children. The needs of Indian students must be considered from the beginning of the policy development process.

FY2012 appropriations for Indian education must take into account the historic underfunding of these programs. For these reasons, the recommendations set forth below reflect what is realistically needed to begin to redress some of the funding inequities of the past decade. At a minimum, BIE-funded programs must be exempted from the 5 percent reduction in funding levels proposed by the Administration. In addition, BIE-funded schools should receive payments for administrative expenses that truly reflect the costs of operating a statutorily compliant and well-managed school system.

**Key Recommendations**

**DEPARTMENT OF EDUCATION**
**Labor, Health and Human Services, Education Appropriations Bill**

**Culturally Based Education**
- Provide $198.4 million for Title VII funding under the No Child Left Behind Act.

Native students are more likely to thrive in environments that support their cultural identities. Title VII provides critical support for culturally based education approaches for American Indian and Alaska Native students and addresses the unique educational and cultural needs of Native students. Title VII has produced many positive outcomes but increased funding is needed in this area to bridge the achievement gap for Native students.

**DEPARTMENT OF EDUCATION**
**Labor, Health and Human Services, Education Appropriations Bill**

**Impact Aid Funding**
- Provide $1.329 billion for Impact Aid, Title VIII funding under the No Child Left Behind Act.

Impact Aid affects Native children living on or near tribal lands and children of military families living on or near bases. Specifically, Impact Aid provides resources to public schools whose tax bases are reduced because of federal activities, including the presence of an Indian reservation. Funding has not kept pace with inflation, and prior year budgets have also failed to allocate appropriately for facilities construction, causing a tremendous backlog in new construction and leaving many public schools on reservations in need of desperate repair.
**Shared Responsibility:**

**DEPARTMENT OF EDUCATION AND DEPARTMENT OF THE INTERIOR**  
**Labor, Health and Human Services, Education and Interior, Environment Appropriations Bills**  
**Tribal Education Departments**  
- Provide $10 million to fund Tribal Education Departments (TEDs).

Five million dollars should be appropriated to the Department of the Interior and $5 million should be appropriated to the Department of Education. Both of these authorizations are included in the No Child Left Behind Act of 2001; however, Congress has never appropriated funding under these authorizations. This funding would make a significant difference: TEDs serve thousands of tribal students nationwide in BIE, tribal, and public schools. TEDs must be adequately financially supported so they can be directly involved in the areas of education in which comparable state education departments and agencies are involved.

**DEPARTMENT OF THE INTERIOR**  
**Interior, Environment Appropriations Bill**  
**Construction and Repair of Bureau of Indian Education (BIE) Schools**  
- Provide $263.4 million for Indian school construction and repair.

American Indian and Alaska Native students, like all students in America, deserve a safe, secure, and educationally appropriate school environment. In its FY2011 budget request, the Administration proposed $52.85 million for the construction and repair of Indian schools and related facilities, a $60 million reduction in the amount appropriated for FY2010. Such inadequate support for school facilities will cause the unmet need for construction funds to balloon. While American Recovery and Reinvestment Act (ARRA) funds have helped to address some facilities issues, this revenue is set to phase-out by FY2012. As of Dec. 31, 2009, 64 schools were in significant need of repair at an estimated cost of $1.34 billion. The FY2012 budget directives could result in the elimination of funding for replacement school facilities altogether. Delaying the replacement and repair of existing facilities jeopardizes student and staff safety as well as increases the amount of school funds that must be diverted to emergency repairs and other facilities maintenance. Realistically, $263.4 million is needed to keep pace with this growing need.
DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

BIA Tribal Grant Support Cost for Tribally Operated Schools

• Provide $72.3 million for Tribal Grant Support Costs.

The operation of schools by tribes or locally elected tribal school boards is a significant exercise of tribal self-determination, encouraged by federal Indian policy for the past 35 years. Tribes and tribal organizations that exercise this option are entitled by law to receive Tribal Grant Support Costs or TGSC (formerly known as Administrative Cost Grants) to cover the administrative or indirect costs incurred when they take over a school, such as contract/grant administration; payroll; accounting; insurance; background checks; and other legal, reporting, and recordkeeping requirements. Currently, 124 of the 183 BIE-funded schools are operated by tribes or tribal school boards.

In FY2010, the funding available for TGSC met only 60 percent of need, the lowest in the decade. Given this reality, schools are required to reduce staff to bare bones levels and to divert funds from educational programs to meet their statutorily mandated administrative requirements. For current contract and grant schools, $70.3 million should be appropriated in FY2012 to fully fund TGSC need, with an additional $2 million to fund the administrative needs of those schools that convert to contract or grant status in FY2012, to avoid diverting funds from existing tribally operated schools.

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

Student Transportation

• Provide $73 million for student transportation.

As with public schools throughout America, BIE-funded schools incur significant costs in transporting students to and from school and other activities. However, BIE schools face conditions that are much more challenging and expensive than the typical public school district. For example, BIE schools routinely receive less funding per mile for transportation even though the per-mile costs are greater. In many areas, such as the Navajo reservation, buses travel long daily routes, often on unpaved roads that are turned into “washboards” by mud and snow. These conditions take a tremendous toll on vehicles, resulting in greater maintenance and repair costs, exacerbating funding shortages that must be made up with education program funds.

For FY2011, the BIE estimated that its student transportation request would provide a payment rate of $3.27 per mile, which represents no increase over the FY2010 appropriation. This amount is much less than the national school transportation costs average and does not take into account rising fuel and repair costs. Full funding for student transportation in FY2012 requires $73 million.
Tribally operated schools use government-owned buildings, a significant number of which are aging, in poor condition, and unable to support modern technology. As reported by the Government Accountability Office and others, approximately 50 percent of BIE buildings are more than 30 years old and 20 percent are more than 50 years old. Unlike other government-operated buildings, these facilities do not receive adequate funding for operation and maintenance and are not replaced on a schedule consistent with health, safety, habitability, and educational standards.

The BIE has not reported the deferred maintenance backlog amount in its recent budget justifications, but the National Indian Education Association has estimated it to be approximately $500 million, growing at a rate of $56.5 million a year. The BIE, however, requested only $50.7 million in funding for each of the past five years. Facilities operation is currently funded at only 46 percent of need; yet costs for electricity, heating fuels, and water and sewer service continue to rise. To begin to address these escalating needs, we request $109.8 million in facilities operations funding and $76 million in facilities maintenance funding.

The ISEF is the core budget account for the educational and residential programs of the Bureau of Indian Education’s elementary and secondary schools and dormitories. These funds are used for teachers, teacher aides, principals, and other administrative personnel as well as dormitory staff, and the costs of instructional materials, computers, and professional development. The ISEF allocation for each school is determined by a statutorily mandated formula. While ISEF funding has seen some increases from FY2003 to FY2010, those increases primarily covered fixed costs and related changes. In only two of those years—FY2009 and FY2010—program funding actually increased. At most schools, when funds for other key programs (e.g., administrative costs, student transportation, and facilities operation and maintenance) are inadequate, ISEF funds are diverted to help address the shortages. This means that even fewer dollars are available for the education and residential programs. For these reasons, we request that ISEF be funded at $431 million for FY2012.
DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

Johnson O’Malley Act

• Provide $24.3 million to fully restore funding to Johnson O’Malley.

The Johnson O’Malley Act (JOM) of 1934 authorized supplemental funds to address the unique educational and cultural needs of Native children attending public school. The “special and unique needs” defined in JOM are determined not by the school boards but through parent committees required for each JOM program, as well as through needs assessments.

DEPARTMENT OF EDUCATION

Labor, Health and Human Services, Education Appropriations Bill

Tribal Colleges and Universities

• Provide $36 million for Title III-A grants under the Higher Education Act.

Titles III and V of the Higher Education Act, known as Aid for Institutional Development programs, support institutions with a large proportion of financially disadvantaged students and low cost-per-student expenditures. Tribal Colleges and Universities (TCUs) clearly fit this definition. The nation’s 36 TCUs serve Native and non-Native students in some of the most impoverished areas in the United States, yet they are the country’s most poorly funded postsecondary institutions. Congress recognized the TCUs as young and struggling institutions and authorized a separate section of Title III (Part A, Sec. 316) specifically to address their needs. Additionally, a separate section (Sec. 317) was created to address similar needs of Alaska Native and Native Hawaiian institutions. Section 316 is divided into two competitive grants programs: formula-funded basic development grants and competitive single-year facilities construction grants. Thirty-six million dollars should be provided in FY2012 to fund these two programs.

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

Tribal Colleges and Universities’ Operations

• Provide $92.4 million for Title I under the Tribally Controlled Colleges and Universities Assistance Act.

To finally reach full funding of Title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (Tribal College Act), which provides day-to-day operating funds for 26 TCUs, a $92.4 million appropriation is required, an increase of approximately $42 million. Since the Act was first funded in 1981, the number of TCUs has quadrupled and enrollments have
increased by more than 325 percent. The Administration requests and Congress appropriates more than $200 million annually to operate Howard University (exclusive of its medical school). Howard is the only other minority-serving institution that receives its institutional operating funds from the federal government. Howard's support amounts to more than $19,000 per student. Currently, most TCUs receive $5,523 per Indian student.

DEPARTMENT OF AGRICULTURE
Agriculture Appropriations Bill
1994 Land Grant Institutions – Tribal Colleges and Universities (TCUs)

TCUs achieved federal land grant status through the passage of the Equity in Educational Land Grant Status Act of 1994. Sixteen years later, the number of TCU land grant institutions is increasing; however, they are still not recognized or funded as full partners in the nation’s great land grant system, and their potential remains unrealized. Funding for all 32 of the 1994 institutions is less than funding received by an average 1862 land grant institution. Appropriations at the requested levels for each of the five 1994 land grant programs is a small but critical step in addressing disparities that exist in the land grant system.

1994 Extension Program
• Provide $10 million in Extension Program funding.

The 1994 Extension Program is designed to complement, not duplicate, the reservation agent extension program, itself a significantly underfunded program. Program activities include: outreach to at-risk youth; business skills development for local agriculture entrepreneurs; native plant restoration and horticulture projects; environmental analysis and water quality projects; and nutrition projects aimed at addressing health disparities, such as high rates of diabetes among Native populations. In FY2004, the tribal colleges’ Extension Program suffered a 13 percent decrease, by far the largest percentage decrease of any Smith-Lever program. In the years since, the 1994 Extension programs have not recovered lost funds.

1994 Institutions’ Research Grants
• Provide $5 million in funding for the Research Program.

The 1994 Research Program allows TCUs to partner with communities in research areas such as agriculture marketing, renewable energy, nutrition and health, Native plants and horticulture, water quality, and land management. These research areas become more vital as tribal economies and cultures seek to address pressing challenges, including the impact of the current economic crisis and the disproportionate effects of climate change.
Educational Equity Grant Program
• Provide $5 million in Educational Equity Grant Program funding for the 1994 land grant institutions.

This program helps TCUs establish agriculturally focused academic programs in areas such as natural resource management, nutrition, environmental science, horticulture, sustainable development, forestry, and bison production and management. Five million dollars will be critical as tribes prepare for climate change and its effects on agriculture, ecosystems, and natural resources. This investment will also support tribal efforts to provide better nutrition options for tribal citizens who experience diabetes and other health issues at rates greater than the national average, due in part to loss of access to traditional foods.

The 1994 Native American Endowment Account
• Provide $130 million in funding for the 1994 Native American Endowment Account.

This endowment, held by the U.S. Treasury, provides funding to TCUs through annual interest. Although Congress has made substantial contributions to the corpus of the endowment over the years, the total amount of the latest interest yield was just $3.1 million, which is shared by the 32 eligible 1994 institutions. These funds assist in strengthening academic programs, including agriculture curricula development, faculty development, instructional delivery, and instrumentation and experiential learning. Funds also are used to enhance student recruitment and retention in the agricultural sciences and to address the ongoing need for improved facilities at the 1994 land grant institutions. The 1994 institutions request a $130 million payment to the 1994 Native American Endowment. Only the annual interest yield is distributed to the 1994 land grant institutions, therefore only the interest and not the payment amount is scored as budget outlay.

Essential Community Facilities Program
• Provide $5 million in Essential Community Facilities Program funding.

This program funds construction, improvement, and maintenance at key TCU facilities, such as advanced science laboratories, computer labs, student housing, day care centers, and community service facilities. Although the situation has improved at many TCUs over the past several years, some institutions still operate partially in donated and temporary buildings. Few have dormitories, and even fewer have student health centers; only a handful of TCUs have full research laboratories. The 1994 institutions need a commitment of $5 million each year for the next five fiscal years (2012-2016).
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Labor, Health and Human Services, Education Appropriations Bill

Head Start
- Provide a $10 million increase in Indian Head Start funding.

Over the past 40 years, Head Start has played a major role in educating Indian children and in ensuring the well-being of many tribal communities. The Indian Head Start program comprehensively integrates education, health, and family services in a manner that closely mirrors a traditional Indian education model, making Indian Head Start one of the most successful federal programs operating in Indian Country. Despite these successes, inflation-adjusted Head Start funding declined by 14 percent in the six years preceding the American Recovery and Reinvestment Act (ARRA) funding. Prior to FY2009, only about 16 percent of the age-eligible Indian child population was enrolled in Indian Head Start. Even with ARRA funding, that number remained below 20 percent. When the Head Start Act was reauthorized in 2007, Indian Head Start was authorized to receive up to $10 million each year in special expansion funds, but only if overall funding increases that exceed inflation are realized for the entire Head Start program. ARRA funding levels for both Head Start and Early Head Start should be made permanent, and further increases should be provided sufficient to trigger the $10 million in Indian special expansion funds authorized by the Head Start Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Labor, Health and Human Services, Education Appropriations Bill

Language Preservation Programs
- Provide $57 million to fund the Esther Martinez Language Programs through the Administration for Native Americans, Administration for Children and Families.

Throughout Indian Country tribes are combating the loss of traditional languages by advocating for and instituting language programs within their communities. These language programs serve Native communities by preventing the loss of tribal traditions and cultures. The tribal students in immersion programs perform substantially better academically, including on national tests, than Native students who have not participated in such programs.
Indian Country won a substantial victory in 2010 with the passage and permanent reauthorization of the Indian Health Care Improvement Act (IHCIA) as part of the Patient Protection and Affordable Care Act (PPACA). American Indians and Alaska Natives realized a number of positive provisions in the overall PPACA legislation. As such, Indian Country strongly supports health care reform and seeks to ensure that the Indian health care delivery system is strengthened so that Indian people and Indian health programs benefit from reformed systems. In order to achieve these results, fundamental components are necessary to fully implement IHCIA and PPACA in Indian Country. Without them, the Indian health care delivery system will be severely hampered, and the rights of Indian people and our sovereign governments will be undermined.

The budget context in Indian Country is defined by the fact that in ceding millions of acres of land, American Indians and Alaska Natives have already paid for their health care coverage. Failure to acknowledge that Native people are different from other groups needing health care coverage will result in either an abrogation of the federal trust responsibility or denial of the right of Native people to fully participate in health reform. Indian health care providers, who form a crucial system of care
in some of the most remote communities in the country, must receive the funding necessary to operate Indian Health Service (IHS) facilities and fund community-based programs on which tribal communities rely.

Underfunding results in atrocious medical practices, poor facility conditions, and unreliable management. Overall improvements in IHS will protect the future of tribal nations and fulfill the government’s treaty responsibility.

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**Implementing our Values in the Federal Health Care Budget**

The National IHS Tribal Budget Formulation Workgroup (Workgroup) recognizes that the president’s budget is not only a fiscal document. It demonstrates the Administration’s core values and, in the case of IHS, its commitment to addressing the health care needs of Indian Country. The budget request for IHS determines the extent to which the United States is honoring its sacred responsibility to American Indians and Alaska Natives.

This Administration’s powerful commitment to Indian Country has been confirmed in the FY2010 and FY2011 budget requests—requests that were consistent with many of the Workgroup’s priorities. Building on this commitment, the Workgroup requests a minimum $735 million increase to the IHS budget for FY2012. Such a budget will carry forward the trust responsibility and support tribal self-determination as a key element of health care reform while continuing the Administration’s partnership with tribes to improve Indian health.

The Workgroup also calls for a longer-term plan that brings Native American health care into parity with the general American population. Despite notable increases in FY2010 and FY2011, IHS remains severely underfunded. Full funding at $21.12 billion is needed to achieve parity. For the IHS budget to grow sufficiently to meet the true and documented needs of Indian Country over even a 10-year period would require the federal government to commit an additional $1.7 billion per year. This request was forwarded in FY2011. A more direct approach would be to achieve parity within seven years, requiring dedicated funding of $2.7 billion dollars per year. This is a critical priority for the future of Indian health and fulfilling the United States’ trust responsibility to Indian tribes.

The Workgroup requests focus on specific increases to IHS that reflect both the priorities of tribal leaders from the 12 Areas and the Agency-wide goals expressed by Dr. Roubideaux: to “build and sustain healthy communities; provide accessible, quality health care; and foster collaboration and innovation across the Indian health system.”
Key Recommendations

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Interior, Environment Appropriations Bill

Indian Health Service (IHS)

- Provide a $735 million increase to Indian Health Service funding.

The FY2012 tribal budget request of $735 million above the president’s FY2011 budget reflects a 16.6 percent increase in funding to meet current services (Table A). Nearly half of that increase is necessary simply to maintain current services. This is the top priority for tribes. The remainder of the requested budget increase is to fund specific programs (Table B).

CURRENT SERVICES

Maintaining current services is a fundamental budget principle. Failure to do so would result in cuts in health care services and delivery. However, to address the state of emergency that IHS faces, budget increases are necessary.

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<th>Table A – FY2012 Current Services Increases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tribal Pay Costs .................................. $13,000,000</td>
</tr>
<tr>
<td>Federal Pay Costs .................................. $12,000,000</td>
</tr>
<tr>
<td>Inflation ........................................... $63,300,000</td>
</tr>
<tr>
<td>Additional Medical Inflation ..................... $54,800,000</td>
</tr>
<tr>
<td>Population Growth .................................. $42,900,000</td>
</tr>
<tr>
<td>Contract Support Costs ............................ $145,000,000</td>
</tr>
<tr>
<td>Health Care Facilities Construction .............. $66,000,000</td>
</tr>
<tr>
<td><strong>Total Current Services</strong> ........................... $397,000,000</td>
</tr>
</tbody>
</table>

CURRENT SERVICES INCREASES

*Contract Support Costs:* The IHS Budget Formulation Workgroup requests a $145 million increase to fully fund Contract Support Costs (CSC) in FY2012. The tribal self-determination and self-governance initiatives have been widely recognized as the single greatest contributor to improved health care in American Indian and Alaska Native communities. The tribes’ choice to operate their own health care systems and thrive depends on CSC funding being available to cover fixed costs. This model promotes self-care management, leading to improved outcomes that target health promotion and disease prevention objectives. Absent full funding, tribes are forced to
reduce direct service monies by leaving direct service positions vacant to cover the government’s shortfall in required payments.

Adequate CSC funding assures that tribes, under the authority of their contracts and compacts with IHS, have the resources necessary to administer and deliver the highest quality health care services to their members without sacrificing program services. Tribal programs have demonstrated increased quality and service over IHS-operated direct service programs.

Population Growth: It is requested that $42.9 million be provided to meet the growing demand on the IHS system. The National Center for Health Statistics estimates that the American Indian and Alaska Native population is increasing at approximately 1.5 percent per year. This increase translates to approximately 30,000 new patients entering the Indian health care system annually. Failure to fund medical costs related to population growth translates into real erosion of existing health care dollars to meet current demand for services.

Staffing for New Facilities: In FY2012, $25 million is needed to fund staffing and operational costs at new facilities. Investments in health care facilities construction must be accompanied by the necessary resources to meet updated staffing and operating costs.

<table>
<thead>
<tr>
<th>HEALTH ACCOUNTS</th>
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<tbody>
<tr>
<td>New Staffing for New/Replacement Facilities</td>
<td>$25,000,000</td>
</tr>
<tr>
<td>Hospitals and Clinics</td>
<td>$90,000,000</td>
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<tr>
<td>Indian Health Care Improvement Fund (subset of H&amp;C)</td>
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<td>Dental</td>
<td>$10,000,000</td>
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<tr>
<td>Mental Health</td>
<td>$4,000,000</td>
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<tr>
<td>Alcohol and Substance Abuse</td>
<td>$10,000,000</td>
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<tr>
<td>Urban Indian Health</td>
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<tr>
<td>Contract Health Services</td>
<td>$118,000,000</td>
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</table>

<table>
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<tr>
<th>FACILITIES</th>
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<tbody>
<tr>
<td>Maintenance and Improvement</td>
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<tr>
<td>Sanitation Facilities Construction</td>
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<tr>
<td>Facilities and Environmental Health Support</td>
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<tr>
<td>Health Care Facilities Construction</td>
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<tr>
<td>Small Ambulatory</td>
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<tr>
<td>Equipment</td>
<td>$5,000,000</td>
</tr>
</tbody>
</table>

| TOTAL PROGRAM INCREASES                              | $338,000,000                                                    |
**PROGRAM SERVICES INCREASES**

*Dental Health:* It is recommended that an additional $10 million be provided for the Dental Health sub-account. American Indians and Alaska Natives have the highest rates of tooth decay and gum disease in the United States. Dental services are extremely limited, and routine procedures such as root canals and dentures services are generally unavailable. It is not uncommon for facilities to ration or defer dental care when funds are low. In 2008, the IHS GPRA Summary Report indicated that only 25 percent of American Indians and Alaska Natives had access to dental care. This falls substantially below the Workgroup’s Healthy People 2010 goal of 40 percent.

*Mental Health:* It is requested that an additional $4 million be provided for increased mental health services. Behavioral health services are inadequate to meet the present and growing needs of patients with mental health disorders. Psychological services that are culturally relevant are necessary to improve outreach, education, crisis intervention, and the treatment of mental illness.

*Alcohol and Substance Abuse Program:* It is requested that an additional $10 million be provided for alcohol and substance abuse programs and community-based prevention activities. Despite recent increased services and community interventions, there remains an overwhelming demand for alcoholism and substance abuse treatment and aftercare prevention. Aggressively addressing this disease has direct implications for reducing injuries, accidental deaths, domestic violence, suicide, cirrhosis, and other chronic health and social problems.

*Urban Indian Health Program:* It is requested that an additional $9 million be provided for the Urban Indian Health Program (UIHP). Often, UIHP clinics are the only health care providers in urban centers that provide culturally appropriate health services to urban Indians. Without this program American Indians and Alaska Natives living in urban centers have no choice but to return to their home reservations to seek care—oftentimes delaying care for months or years.

*Contract Health Services:* It is requested that an additional $118 million be provided for Contract Health Services (CHS). This is a very modest increase since it is estimated that the unfunded need in the CHS program exceeds $1 billion. At present, less than half of the CHS need is being met, leaving too many Indian people without access to key medical services.

*Equipment:* It is requested that an additional $5 million be provided to fund equipment requirements at newly constructed tribal joint-venture projects. These equipment requirements are necessary for clinical diagnosis and effective therapeutic procedures in new facilities.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Labor, Health and Human Services, Education Appropriations Bill

Behavioral Health

- Provide $15 million to fund Substance Abuse and Mental Health Services Administration (SAMHSA).

This SAMHSA grant program has been authorized to award grants to Indian health programs to provide the following services: prevention or treatment of drug use or alcohol abuse, mental health promotion, or treatment services for mental illness. To date, these funds have never been appropriated.

Suicide Prevention

- Provide a $6 million tribal set-aside for American Indian suicide prevention programs under the Garrett Lee Smith Act.

Suicide has reached epidemic proportions in some of our tribal communities. The Garrett Lee Smith Memorial Act of 2004 is the first federal legislation to provide specific funding for youth suicide prevention programs, authorizing $82 million in grants over three years through SAMHSA. Currently tribes must compete with other institutions to access these funds. To assist tribal communities in accessing these funds, a line-item for tribal-specific resources is necessary.
Child Welfare

American Indian and Alaska Native children are disproportionately represented in foster care in the United States at a rate that is two to three times the national average. Given the high incidence of out-of-home placements for American Indian and Alaska Native children and the high risk these children generally have for entering the child welfare system, tribal governments need adequate financial resources to help protect children and programs designed with flexibility. Tribes need to be able to design and implement programs to best meet community needs.

Tribes face great obstacles in their efforts to provide preventive services to address child abuse and neglect in their communities. These difficulties are strongly linked to limited funding. Jurisdictional and geographic barriers make it difficult for American Indian and Alaska Native children and families to access services outside their communities, and the overall need for these services continues to increase. The majority of tribal communities are characterized as rural, with many covering vast areas that create a sense of geographic, and sometimes social, isolation. This is especially true where services and recreational and community activities are difficult to access.
Key Recommendations

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Labor, Health and Human Services, Education Appropriations Bill

Foster Care Initiative
- Provide funding for Children’s Bureau foster care demonstration grants at $20 million, and track tribal awards.

The goal of this Obama Administration initiative is to identify innovative strategies that improve outcomes for children in long-term foster care. Twenty million dollars in demonstration grants should be provided to states, localities, and tribes to test new, innovative strategies for improving outcomes for foster care children, especially those children who have had long-term involvement in the system. Grantees that demonstrate improved outcomes for children in long-term foster care will be eligible for bonus funding in addition to up-front grant funds. Tribal awards and outcomes for Native children in foster care should be tracked, including outcomes for Native children residing in states where the state received a grant award.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Labor, Health and Human Services, Education Appropriations Bill

Child Welfare Services
- Increase the tribal allocation of Title IV-B, Subpart 1 by creating a 3 percent set-aside from the total appropriation.

The bare minimum needed to establish a child abuse and neglect prevention program in any tribal community is approximately $80,000. Title IV-B, Subpart 1 is necessary to support a significant portion of this amount, yet tribes are hindered in their ability to effectively administer programs because most are only eligible for extremely small grants (less than $10,000 in most cases). Other tribal sources of support, such as Indian Child Welfare Act (ICWA) and Bureau of Indian Affairs (BIA) Social Services funding, are needed for other child welfare-related services, particularly responses to notices of child custody proceedings in state courts involving tribal member children. No other consistent, stable source of funding is available to tribal governments to provide basic, preventive child welfare services. BIA Social Services funding is discretionary and not available to every tribe. A 3 percent tribal set-aside of Title IV-B, Subpart 1 funding (within a total appropriation of $281.7 million for this capped entitlement program) will allow for larger tribal grants to provide basic child welfare services to support Native families and protect Native children.
To advance new practices and improve outcomes with children under their jurisdiction, tribal courts need access to funding that will support capacity building and innovative practices, such as the funding that states receive under Title IV-B, Subpart 2 of the Promoting Safe and Stable Families Act. Currently, the Title IV-B, Subpart 1 program allows use of funds for family preservation purposes, but Title IV-B, Subpart 2 (the larger of the two programs) does not focus on family preservation. Title IV-B, Subpart 2 should be funded at $200 million, the full amount authorized for the discretionary component of the program, so tribes will receive increased resources from the 3 percent set-aside.

Grants are authorized under Title II, Community-Based Grants for Prevention of Child Abuse and Neglect of CAPTA. Tribes and migrant programs must compete with each other for a 1 percent set-aside of the total funding appropriated under Title II of CAPTA.

Tribes and states have a governmental responsibility to ensure that foster care protections are provided to every child that is in an out-of-home placement under their jurisdiction and care. A 3 percent tribal set-aside, listed as a separate line-item in the budget, will provide a base level of funding for every tribe, regardless of size, and give every tribal community an opportunity to establish a quality child abuse and neglect prevention program.
DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

Indian Child Welfare

- Increase funding for the Indian Child Welfare Act (ICWA) by $45 million to $70 million for tribes and tribal consortia.

In 1978, Congress estimated that $35 million was needed to fully fund tribal programs under ICWA (equivalent to more than $115 million in 2010 dollars). Despite this estimate, the program has never been funded at more than $25 million. We request an increase in ICWA funding (through the BIA Tribal Priority Allocations line item) of $45 million, which will begin to address historical underfunding and provide tribes minimum support with which to keep Indian children safe in their homes and communities. It is critical that ICWA be funded at $70 million, given lack of tribal access to the Title XX Social Services Block Grant (a major source of funding for state child welfare programs), and the assistance that tribes often provide to states—free of charge—to help manage Indian child welfare cases in the state system.

- Re-establish the Urban Indian Child Welfare Grant Program under ICWA and fund at $12 million.

Increasingly American Indian and Alaska Native children are removed from their urban homes and placed into state custody. From 1979 to 1993, the BIA requested funding for grants that would allow urban organizations to help tribes, states, and counties comply with ICWA. The grant program became an effective way to serve tribal children and families that resided in urban areas but was discontinued due to lack of funding. Twelve million dollars in urban Indian child welfare grants will provide support that tribes need to respond to notices from states and counties that are removing Indian children from their homes because of abuse or neglect.

- Increase Bureau of Indian Affairs Child Welfare Assistance funds to $55 million.

This funding stream provides foster care and adoptive home services to children who do not qualify for Title IV-E funding. Historically, this funding has never exceeded $30 million per year, and many tribes have not even been able to access these severely limited funds. Child Welfare Assistance (funded through the BIA Tribal Priority Allocations line item) should be increased to $55 million over FY2011.

Moreover, tribes should be able to use program funding as a non-federal match for the Title IV-E Foster Care and Adoption Assistance entitlement program. Tribes just gained direct access to Title IV-E and have not had the same support that states have had over the last three decades to build the infrastructure necessary to administer the program. Consistent with the federal statute, the regulations should be clarified to ensure that Child Welfare Assistance, like any other tribal contract funding, can be used as a non-federal match to leverage other federal funds.
Disabilities

Key Recommendations

**DEPARTMENT OF EDUCATION**

*Labor, HHS, Education Appropriations Bill*

**Vocational Rehabilitation Services Projects for American Indians with Disabilities**

- Increase Vocational Rehabilitation Services Projects to $67 million, and create a line-item of $5 million for providing outreach to tribal recipients.

According to the U.S. Census, 24 percent of American Indians and Alaska Natives have a disability. Diabetes, heart disease, and preventable accidents are among the issues that contribute to the disproportionate number of American Indians and Alaska Natives with disabilities. This creates an extraordinary need for tribes to help their disabled citizens become self-sufficient. Tribes have had limited access to the American Recovery and Reinvestment Act (ARRA) vocational rehabilitation and job training funding compared to states.

**Elders**

In tribal communities, elders are considered the “wisdom-keepers” and are held in the highest regard. Unfortunately, these elders comprise the most economically disadvantaged elderly minority in the nation. American Indian and Alaska Native elders are at a growing risk of financial exploitation and neglect.

Funds for grants to Indian tribes traditionally have been both well managed and woefully inadequate to meet existing needs. The Older Americans Act (OAA) specifically states “it is the purpose of this Title to promote the delivery of supportive services, including nutrition services, to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under Title III” (grants for state and community programs on aging). However, “comparable services” have not been achieved due to insufficient funds for this entitlement. State programs seldom reach Indian elders due to cultural and geographic barriers. Indian tribes have little or no access to the agencies, departments, ombudsman, or other programs that are available to states.

OAA is the major federal vehicle that provides social and nutrition services to elders. These supportive services include congregate and home-delivered nutrition services; community centers; community service employment; long-term care ombudsman program; information and referral services; and services to prevent the abuse, neglect, and exploitation of elders.
**Key Recommendations**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Labor, Health and Human Services, Education Appropriations Bill**

**Older Americans Act - Title VI**
- Provide $30 million for Parts A (Grants for Native Americans) and B (Grants for Native Hawaiians) of the Act.

These programs are the primary vehicle for providing nutrition and other direct supportive services to American Indian, Alaska Native, and Native Hawaiian elders. Approximately two-thirds of the Part A and Part B grants to Indian tribes or consortia of tribes are for less than $100,000. This funding level is expected to provide services for a minimum of 50 elders for an entire year. Those tribes receiving $100,000 serve between 200 and 300 elders. Many tribes are unable to meet the five-days-a-week meal requirement because of insufficient funding and are serving congregate meals only two or three days per week. Some Title VI programs are forced to close for several days each week, unable to provide basic services such as transportation, information and referral, legal assistance, ombudsman, respite or adult day care, home visits, homemaker services, or home health aide service. Rapidly increasing transportation costs also severely limit Title VI service providers’ ability to deliver meals and related supportive services to home-bound Indian elders.

**Provide $7.2 million for Part C (Native American Caregiver Support Program), and create a line-item for training for tribal recipients.**

Part C grants assist American Indian, Alaska Native, and Native Hawaiian families caring for older relatives with chronic illness. The program offers myriad services that meet caregivers’ needs, including information and outreach, access assistance, individual counseling, support groups and training, respite care, and other supplemental services. Dedicated resources are needed to address historically unmet tribal training needs.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Labor, Health and Human Services, Education Appropriations Bill

Older Americans Act - Title VII
- Create a tribal set-aside of $2 million under Subtitle B of Title VII.

Subtitle B of Title VII of OAA authorizes a program for tribes, public agencies, or nonprofit organizations serving Indian elders to assist in prioritizing issues concerning elder rights and to carry out related activities. While states have been funded at more than $20 million per year under this program, funds for tribes have never been appropriated for this purpose. Further, tribes have no additional source of mandatory federal funding for elder protection activities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Labor, Health and Human Services, Education Appropriations Bill

Older Americans Act - Title IV
- Provide $3 million for national minority aging organizations to build the capacity of community-based organizations to better serve minority senior Americans.

Language and cultural barriers severely restrict Native elder access to federal programs for which they are eligible. Typically these senior Americans have limited access to and participation in programs such as Social Security, Medicare, and Medicaid. Funding is needed to build capacity for tribal and other community-based aging organizations to serve Indian elders. These efforts could include training tribal staff on expanding Indian elders’ access to Medicare, Medicaid, housing, congregate meals, and veteran benefits. Efforts could also include working with tribal leaders to leverage existing funds and programs to sustain support for elders. The overall interest is to strengthen local organizations in serving seniors.
Economic Development

Native nations continue to work toward self-determination and self-sufficiency, despite the fact that federal resources for entrepreneurial development have been insufficient and targeted elsewhere. With unemployment reaching an average of 50 percent and sometimes as high as 80 percent on reservations, it is critical to invest in economic development opportunities for tribal communities. Economic development programs spur community growth, provide job opportunities, and increase quality of life. The following budget recommendations offer significant promise to address historically unmet needs for economic development in Indian Country.
Key Recommendations

**DEPARTMENT OF COMMERCE**

**Commerce, Justice, Science Appropriations Bill**

**Minority Business Development Agency**

- Increase MBDA funding by $3.5 million to $35 million.

The Minority Business Development Agency (MBDA) uses its funding to support minority business enterprise centers (MBECs) and Native American business enterprise centers (NABECs) to provide business consulting, advice on business financing, and procurement technical assistance to Indian tribes, tribal enterprises, and American Indian, Alaska Native, or Native Hawaiian business owners. MBDA’s budget decreased by half and was flat-lined for years at $29 million until a slight increase in FY2010 to $31.5 million. Only about $11 million-$12 million of the budget is devoted to supporting 32 MBECs and 6-8 NABECs. With a higher annual funding level, MBDA could support more MBECs and NABECs at levels sufficient to enable them to hire more business consultants. These consultants can assist additional minority and Native companies in accessing needed business capital, pursuing commercial and government contracts, expanding their services, generating more revenue, and creating more jobs. This budget increase will spur job creation and economic growth in Native communities.

**DEPARTMENT OF COMMERCE**

**Commerce, Justice, Science Appropriations Bill**

**Office of Native American Affairs**

- Fund the Office of Native American Affairs at $3 million.

Congress enacted the Native American Business Development, Trade Promotion and Tourism Act of 2000 (P.L. 106-464) to codify the Office of Native American Affairs, but funds were not allocated until late 2005 when MBDA set aside about $200,000 of its own budget for the Office. Indian Country has consistently advocated for dedicated funding for this Office and has urged that $3 million be made available from within the Commerce’s Departmental Management budget to re-establish this Office to implement Indian policy initiatives and expand Native business development initiatives, both domestically and internationally. With independent funding, this Office could collaborate more effectively with Commerce and through the NABECs to fulfill the Secretary’s duties prescribed by the 2000 Act, which include: serving as the economic development lead; conducting outreach to tribes; supporting tourism-related activities and demonstration projects; conducting trade and tourism missions abroad; and hosting, co-hosting, and supporting Native programs and conferences devoted to business and economic development, business and financial
management training, marketing and procurement technical assistance, domestic and international trade promotion, and intertribal, interstate, and international tourism.

SMALL BUSINESS ADMINISTRATION
Financial Services Appropriations Bill
Office of Native American Affairs
• Fund the Small Business Administration’s (SBA) Office of Native American Affairs at $2 million.

Historically, the SBA’s funding for Native American outreach has been very low, particularly when compared to other SBA program investments. Outreach responsibilities are performed primarily by the SBA’s National Director of the Office of Native American Affairs (ONAA), an increasingly active operation with significant ongoing initiatives in business development and tribal and business executive training. With increased authority and funding, the ONAA could provide greater assistance through the SBA’s E-200 executive training courses (that have already proven successful in spurring small business growth and job creation) and other training assistance to improve access to SBA loans, loan guarantees, and surety bond guarantees. Increased funding would also enable ONAA to more effectively facilitate and monitor Native contractors participating in the SBA’s 8(a) Business Development Program, HUBZone, women business, veteran and service disabled veteran business, and other small business contracting programs. By giving the ONAA more authority and resources to assist tribes, tribal enterprises, and other Native-owned businesses to build their entrepreneurial capacity, these businesses will be more likely to grow, generate increased revenues, create more jobs, and strengthen Native communities facing the ongoing impact of decades-long economic distress.

SMALL BUSINESS ADMINISTRATION
Financial Services Appropriations Bill
Native American Business Center Grants
• Fund Native American Business Center Grants at $10 million.

The House and Senate both passed bills in the 111th Congress to authorize at least $10 million to support Native American Business Center (NABC) grants. These grants would expand the availability of business centers that provide culturally tailored business development training, procurement technical assistance, and related services to Indian tribes, tribal enterprises, and other Native-owned businesses. Entities eligible to apply for NABC grants would include tribal colleges and Native nonprofit organizations dedicated to business and financial consulting and procurement technical assistance. Authorization and appropriation of such grants is essential for the ONAA to be able to access a fair share of the sizable amounts appropriated each year for SBA’s Entrepreneurial Development programs, including the Small Business Development Center program.
SMALL BUSINESS ADMINISTRATION

Financial Services Appropriations Bill

Consultation on 8(a) Improvements
- Provide at least $1 million within the SBA’s Business Development Program for SBA Consultations on and Implementation of 8(a) Improvements.

These resources are critical to advancing the SBA’s regulatory reform agenda to improve accountability, efficiency, and transparency by re-engineering 8(a) program operations as applied to Alaska Natives, Indian Tribes, and Native Hawaiian organizations and the 8(a) enterprises they own. This dedicated funding would enable SBA to continue and complete its consultations with tribes and these community-based enterprises on the 8(a) regulatory changes proposed by the SBA in October 2009, and promulgate final rules based on the full public record developed during the extensive comment period. The intended result should be clear direction to both the SBA and the 8(a) participants on how program requirements apply to these enterprises and how transparency and compliance with these requirements will improve performance, management, oversight, and overall accountability by contractors and the SBA.

DEPARTMENT OF THE TREASURY

Financial Services Appropriations Bill

Community Development Financial Institutions (CDFI) Fund
- Increase Native CDFI funding up to 10 percent and at least $15 million in FY2012.

The Native Initiative of the CDFI Fund has had a tangible effect on nearly 100 Native communities that are now home to certified or developing CDFIs. American Recovery and Reinvestment Act and FY2010-11 investments in the CDFI Fund and direct increases in the Native Initiative allocation have been a welcome investment, but still leave significant unmet needs for access to capital and financial skill development in Native communities. Over the past five years, the number of annual applications to the Native CDFI Initiative has continued to grow, with some application years exceeding $20 million.

Given the economic conditions of many Native communities, we encourage the CDFI Fund to move toward a set-aside of 10 percent of the CDFI Fund appropriations to support the development and growth of Native CDFIs. The services provided by Native CDFIs are critical to the economic recovery of Native communities. Offering more training for Native entrepreneurs in preparing business plans, applications for business loans and letters of credit, and contracting certifications would enable them to grow their businesses and increase Native employment.
The Department of the Interior’s OIEED has launched many creative and successful initiatives to encourage energy resource development on tribal lands, spur economic and business development assistance and training, expand job and skills training opportunities, and leverage limited federal funding to provide access to capital. More funding would enable the OIEED to expand the scope and usefulness of its Indian Loan Guarantee Program to finance more business development (including support for Native business development providers engaged in assisting Native businesses in preparing business plans and financing applications); enable more Native contractors to satisfy surety bonding requirements necessary to perform construction projects; expand use of the Section 477 program and other job training initiatives; and assist business incubation pilot projects initiated in recent years to facilitate Native business growth and job creation. The OIEED has also worked with Interior’s acquisition staff to develop stronger and more streamlined procurement procedures for use of the Buy Indian Act authority to procure goods and services from Native contractors and suppliers to the maximum extent possible.

The OIEED’s Division of Capital Investment oversees the Indian Loan Guarantee Program that enables eligible borrowers to develop viable Indian businesses through conventional lender financing that might otherwise be unavailable and helps lenders reduce excessive risks on the loans they make. In order to expand access to capital for Indian tribes and businesses, OIEED is exploring whether the loan guarantee pool could be leveraged further to implement its surety bond guarantee authority that has never been used or guarantee tribal bonds issued for economic and community development purposes.
The Defense Logistics Agency has supported the Procurement Technical Assistance Program (PTAP) with cooperative agreement assistance to regional, statewide, and local centers. Many of these Procurement Technical Assistance Centers (PTACs) are housed within educational institutions that help support their operations. American Indian PTACs offer valuable assistance to tribal and other Native-owned companies in navigating the large, complex federal procurement market and winning government contracts for stimulus projects, war-fighting efforts, and myriad other government undertakings.

For the past 20 years, Congress has appropriated $8 million per year for payment of 5 percent Indian Incentive Payments (IIP) to Department of Defense (DOD) contractors that subcontract work to Native-owned subcontractors under DOD contracts. Once DOD fully implemented the IIP program, demand began to outstrip the funding available to make IIP payments to contractors. An increase to $15 million in funding for the IIP program will address the backlogged IIP requests that have already been approved and expand Native access to the federal contracting process.
Telecommunications

While tribal communities still lag behind the rest of the United States in access to radio, wireless, and broadband services, tribes made remarkable gains in telecommunication policy in 2010: tribal priorities were included in the National Broadband Plan and tribes received priority access to broadcast licensing. These gains are a critical foundation for meaningful participation in future broadband and telecommunications policy. With the current low rate of telephone, radio, and broadband service in tribal communities, the following recommendations will provide funding to increase access to telecommunications services throughout Indian Country.
FEDERAL COMMUNICATIONS COMMISSION (FCC)

Financial Services Appropriations Bill

Office of Native Affairs and Policy
  • Provide $1.5 million to fund the newly created Office of Native Affairs and Policy.

Funding for the newly established Office of Native Affairs and Policy will allow the FCC to conduct long overdue outreach and consultation with the 565 federally recognized tribes. Due to the remoteness of many tribal lands and the uniqueness of individual tribal communities, it is important that the FCC hear directly from tribes to better understand and respond to their concerns. Tribal leaders need to have ongoing communication with the FCC; the Office of Native Affairs and Policy has the potential to provide this much needed access and attention.

DEPARTMENT OF COMMERCE

Commerce, Justice, Science Appropriations Bill

Public Telecommunications Facilities Program
  • Appropriate $4 million for construction of American Indian radio stations through the Public Telecommunications Facilities Program.

Continued funding of the Public Telecommunications Facilities Program (PTFP) will ensure enhanced radio station infrastructure for tribal communities. Radio stations are critical anchor institutions that deliver public safety announcements and programming for American Indians. Tribes depend on funding from the PTFP for the construction and upkeep of their radio stations. Thirty-four tribes have received funding from this program and 38 others have submitted applications and obtained construction permits for future stations.

CORPORATION FOR PUBLIC BROADCASTING

Labor, Health and Human Services, Education Appropriations Bill

Grant Programs
  • Appropriate $5 million for funding American Indian radio stations.

While other communities—particularly urban communities—have myriad options for accessing radio programming, many Native communities rely heavily on a single radio station as the most effective medium for receiving news about weather conditions, traffic issues, available services, evacuations, and emergencies. Appropriating funds to the Corporation for Public Broadcasting (CPB) will provide much needed support for American Indian stations. Currently, 28 tribal stations receive funding from the CPB; without this financial support the stations could not operate.
DEPARTMENT OF AGRICULTURE

Agriculture Appropriations Bill

Broadband Access

• Fully fund the authorized amount of $25 million, with a substantial percentage toward tribal areas.

Broadband access is less than 10 percent on Indian reservations, and many reservations have less than 50 percent coverage of basic telephone service. To ensure the Administration’s commitment to nationwide broadband access, USDA Rural Development needs to work with tribes to improve telecommunications service to tribal communities. This can be accomplished through funding increases in the Rural Business Enterprise Grants program and the new broadband fund established in Section 6110 of the Farm Bill. This new fund, authorized at $25 million, provides loans and loan guarantees for the development of broadband service in rural areas, with priority to areas with no incumbent providers.
Agriculture

Agriculture is a fast growing sector in Indian Country. It is the second leading employer in Native communities and is the backbone of the economy for about 130 tribes. The 2007 Census of Agriculture shows a dramatic 88 percent increase in the number of American Indian farmers (79,703 more than in 2002). In 2007, nearly 61,472 American Indians operated farms on more than 58 million acres of land and sold $3.26 billion of agricultural products, including $1.46 billion of crops and $1.71 billion of livestock and poultry. Because 36 percent of Native Americans live in rural areas, tribal governments and farmers look to active partnerships with the U.S. Department of Agriculture (USDA) to sustain and advance common interests across the broad array of services that USDA provides to tribal governments.

Tribal governments are recognizing that USDA services reach beyond agriculture, as they serve not only farmers and ranchers, but tribal governments, natural resource managers, youth, colleges, water infrastructure providers, energy suppliers, and communities. Indian Country looks forward to greater collaboration with USDA and synergies across their programs best suited to each tribe's circumstances.
Key Recommendations

DEPARTMENT OF AGRICULTURE
Agriculture Appropriations Bill

Federally Recognized Tribal Extension Program
• Increase the Federally Recognized Tribal Extension Program (FRTEP) by $15 million.

Congress mandates research and extension services in every county in the nation. These services support farmers, natural resources managers, youth (via 4-H youth programs), and communities. While there are more than 3,100 extension offices nationwide, fewer than 30 extension agents are supported on Indian reservations, with current funding at only $3 million. This means more than 97 percent of America’s counties have had robust programs since 1914, while less than 4 percent of tribal members living on their reservations have access to these programs. This $15 million increase would create up to 85 new offices, provide meaningful service to Indian Country, and begin to address a persistent inequity.

DEPARTMENT OF AGRICULTURE
Agriculture Appropriations Bill

Risk Management Agency Community Outreach and Assistance Partnership Program
• Increase the Risk Management Agency’s (RMA) Community Outreach and Assistance Partnership Program by $6.05 million.

USDA RMA’s Community Outreach and Assistance Partnership Program provides information and training to limited resource, socially disadvantaged, and other traditionally underserved producers. It has effectively provided education, program information, and technical assistance to these producers, enabling them to participate in crop insurance and many other USDA programs and activities. RMA has signed 298 partnership agreements worth more than $32 million since 2003; in FY2008 alone, the program supported the activities of 65 organizations in 33 states with agreements worth $83 million. Budget cuts in FY2009 resulted in an interim decision by USDA to fund the program at $2.25 million. A $6.05 million increase is necessary to restore funding to the FY2008 level for this important program.
DEPARTMENT OF AGRICULTURE

Agriculture Appropriations Bill

Rural Development’s Business and Industry Loan Program

• Provide $10 million for the Rural Development Business and Industry Loan Program.

This program is authorized to provide grants, loan guarantees, and below market direct loans for a variety of purposes, including construction, expansion, repair, or modernization to eligible entities, including Indian tribes and tribal businesses. The program is already authorized but has not been funded for several years. In light of existing disparities in the condition of tribal government infrastructures, a $10 million investment in the program presents an opportunity to create jobs—a priority consistent with the Administration's Economic Recovery Plan—particularly on reservations where unemployment exceeds the rate for the overall U.S. population. This request will provide tribal governments and enterprises with a new source of capital and employment.
Tribal peoples have close spiritual, cultural, practical, and interdependent relationships with their homelands and natural resources. As such, they also face the direct and often disproportionate impacts of environmental degradation, contamination, and climate change. To preserve and enhance the environmental quality of Indian Country for present and future generations and to sustain tribal cultures, tribes require equitable funding for their environmental programs. As sovereign entities, tribes can set environmental quality standards, make environmental policy decisions, and manage programs consistent with the Environmental Protection Agency’s (EPA) Indian Policy.
Key Recommendations

ENVIRONMENTAL PROTECTION AGENCY
Interior, Environment Appropriations Bill
Multimedia Tribal Implementation Grants Program
• Authorize and appropriate $30 million for this program.

The president’s FY2011 budget request proposed $30 million for funding a new Tribal Multimedia Implementation Grants program, which the tribes fully support. This new grant program was established to provide necessary resources and programmatic flexibility for the many tribal environmental programs poised to yet unable to engage in activities that will result in on-the-ground environmental protection of their peoples and natural resources.

ENVIRONMENTAL PROTECTION AGENCY
Interior, Environment Appropriations Bill
Tribal Water Pollution Control
• Provide $32 million for this program.

Section 106 of the Clean Water Act provides grants that enable tribes to engage in activities necessary to undertake water pollution control efforts, including water quality planning and assessments; developing and implementing water quality standards and total maximum daily loads; ground water and wetland protection; and nonpoint source control activities. Currently, 252 tribes receive Section 106 funding. For FY2012, tribes request $32 million so that an additional 15 tribes can engage in these activities. This modest funding increase will help meet the following goals by the end of 2012: 57 percent of tribes will have comprehensive monitoring program strategies; 70 percent of tribes will have water quality data accessible in the STORET database; 10 percent of tribes will be involved in cooperative approaches with states and/or EPA to develop watershed-based plans; and 23 percent of tribes will have EPA-certified water quality standards.
Section 319 of the Clean Water Act provides tribes with grants to develop and implement polluted runoff control programs that address critical water quality concerns identified in the 106 program and other monitoring programs. Less than 10 percent of tribes have EPA-approved water quality standards (WQS), compared to 96 percent of states. WQS are the necessary foundation to engage in water pollution control activities, making this program critical, particularly as climate change will significantly affect water quality, and collaboration across jurisdictions will be required. As tribal demand for this competitive funding exceeds availability, CWA Section 319 funding to tribes should be increased by $1 million to $12 million. Furthermore, the statutory cap on the tribal set-aside of a mere one-third of 1 percent of all Section 319 funding should be removed. By the year 2012, 200 tribes receiving CWA Section 319 funding should have comprehensive assessment and management plans, putting them one step closer to WQS implementation.

Tribal peoples rely on wetlands for sustenance and cultural vitality. The biodiversity that wetlands foster supports species that are intimately connected with tribal lifeways and traditions that cannot be replaced. Across the nation, wetlands are threatened by rising sea levels, drought conditions, and other factors associated with climate change. In these circumstances, tribal needs and interests in wetlands protection are heightened.

As of 2008, 53 tribes had received Clean Water Act Section 104 grant funding to engage in wetland protection activities, including assessments and monitoring, and wetlands restoration, protection, and enhancement. It is anticipated that $5 million to tribes (compared to $1.75 million in FY2006) will result in 75 tribal wetland projects by the end of 2012. Ecosystems transcend political jurisdictions and, as such, efforts to support tribal wetlands also bolster cooperation in regional wetlands protection strategies encouraged by EPA’s Strategic Plan.
Tribes have a tremendous need for funding under the Clean Water and Drinking Water State Revolving Funds (CWSRF and DWSRF). According to the Indian Health Service (IHS), more than 13 percent of tribal homes lack access to safe drinking water and sanitation infrastructure (compared to less than 1 percent of homes nationwide), including more than 36,000 tribal homes without potable water. Recognizing the severity of these circumstances, MOUs signed by EPA, IHS, Department of the Interior, and Department of Agriculture (USDA) resulted in the creation of an interagency ACCESS workgroup. This group’s mission is to meet America’s commitment to the United Nations Millennium Development Goal to reduce tribal lack of access to clean and safe drinking water by 50 percent by the year 2015.

Tribes appreciate that the FY2010 budget provided up to a 2 percent tribal set-aside, which surpasses the current 1.5 percent set-asides for the SRFs. However, due to the evident need and comparative inequities, tribes request a 3 percent set-aside under these Acts for FY2012 appropriations. The 3 percent set-aside would consist of $67.2 million of CWSRF and DWSRF funds dedicated to tribes for FY2012 and beyond. This calculation is based on an IHS report to the Office of Management and Budget citing that $67.2 million per year is needed until the year 2018 to reduce the number of tribal homes lacking access by 67 percent. Even if this goal is achieved, tribal homes would still lack access at a rate at least four times higher than homes nationwide.

A common challenge many tribes encounter, particularly those experiencing persistent poverty, is the ability to hire, fund, and retain qualified water system operators. The interagency ACCESS workgroup notes that some tribal water systems fail before their intended design life for lack of O&M funding. This in turn requires premature recapitalization and the diversion of funds, which could be used to provide some tribal communities with safe drinking water and basic sanitation for the first time. The IHS has the statutory authority to fund tribal O&M under 25 USC §1632(b), but has not yet done so. Tribes request that $1 million be provided to fund and retain operators of tribal water systems with high rates of non-compliance in order to protect the federal investment in physical infrastructure on Indian lands and ensure the provision of safe drinking water and basic sanitation. Such funding should not be extracted from funds already dedicated to the construction of tribal water infrastructure.
ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Border Environmental Infrastructure Fund (BEIF)
- Provide $1 million for BEIF.

Since 1996, tribes have used BEIF funding to improve water and sanitation for more than 8,000 homes. Yet, no funding has been provided for tribes under this program since FY2006. Tribes request that $1 million of the total FY2012 program funding be allocated to support tribal water infrastructure.

ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Underground Injection Control (UIC)
- Provide $1 million for the UIC tribal set-aside.

Increased UIC funding from $1 million will help tribes address groundwater problems associated with wastewater disposal and oil spill prevention practices. Tribes have encountered problems with upland dumping of wastewater and oil spills associated with drilling over groundwater aquifers that are drinking water sources, both of which have the potential to impact water quality. Funding to address these significant health risks is critical.

ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Alaska Native Villages
- Provide an increase of $26 million for Alaska Native villages to conduct science/research activities and to address climate change impacts.

Climate change affects the more than 200 Alaska Native villages on a daily basis. It is imperative that funding be allocated to tribes and Alaska Native villages to conduct science/research activities critical to their unique locations with consideration for normal daily activities. At a minimum, increase funding to $26 million, an increase of $1.4 million over the FY2008 allocation of $24.6 million. With these resources, approximately 10 percent of Alaska Native villages will begin to address climate change impacts and provide safe drinking water and basic sanitation to at least 20 percent of village homes by 2015.
ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Information Exchange Network (IEN)
• Set aside 10 percent of IEN funding for tribes.

The EPA IEN is an innovative partnership among states, tribes, and the EPA that is designed to facilitate environmental data management and submission in a cost-effective manner. Beginning in 1998, states assisted in developing the IEN and received several million dollars to develop requisite information technology infrastructure and staffing. Tribal governments were brought in years later, with limited capacity and unequal access to the resources states had, particularly as IEN experienced budget reductions.

At present, all 50 states operate nodes, while only eight tribes do, with several in the development and planning phase. Tribes urge sustained funding for the Information Exchange Network and a minimum 10 percent tribal set-aside of such funding to provide development and implementation support for tribes that are just coming on board and operations/maintenance funding to tribes with operating programs.

ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Indian Environmental General Assistance Program (GAP)
• Provide $75 million for institutional capacity building and environmental management.

The top environmental priority identified by tribal governments is continued program capacity building. GAP is particularly critical to Alaska Native villages, as it provides 99 percent of the overall funding to address their basic environmental needs. Tribes welcomed the restoration of GAP funding levels, which had been reduced in the prior Administration, through an increase from $58 million to $71 million in FY2011. However, GAP funding has not kept pace with the growth of tribal environmental programs over the years, forcing tribes to perform the increased duties of maturing programs with fewer funds. Furthermore, the average cost for tribes to sustain a basic environmental program was set at $110,000 per tribe in 1999 and has not been adjusted for inflation. Tribal demand for program implementation across various media includes a very pressing need to establish climate change adaptation plans. A $175,000 per tribe distribution (totaling approximately $98 million) reflects an equitable adjustment, which we seek to achieve incrementally through a $75 million request for FY2012.
ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Solid Waste Priorities
  • Provide $4 million to enable tribes to develop and implement solid and hazardous waste programs.

The Indian Lands Open Dump Cleanup Act of 1994 (P.L. 103-399) requires that IHS submit annual reports to Congress indicating a priority for addressing solid waste deficiencies and progress made in addressing the needs in Indian Country. These reports include assessments of the funding necessary to bring those open dump sites into compliance. IHS’s last report, in 1998, indicated that 1,104 open dumps existed on Indian land, and that approximately $126 million was needed for activities to clean up open dump sites.

Despite a committed interagency effort among EPA, BIA, IHS, the Department of Defense (DOD), and USDA to tackle this enormous problem, tribal requests have always vastly exceeded available funding to directly address solid waste issues in Indian Country. A total of $195 million was awarded to support 163 proposals between FY1999 and FY2007; this represents less than one-sixth of the total need identified by IHS. In one attempt to mitigate these fundamental legal, programmatic, and policy obstacles, EPA’s General Assistance Program (GAP) statute allows funding for the development and implementation of solid and hazardous waste programs for Indian lands. While this is not ideal, we recommend an additional $4 million be included in the GAP as an interim measure to enable tribes to develop and implement solid and hazardous waste programs. In the longer term, we also recommend that the relevant agencies work with the tribes to overcome the existing legal, funding, and policy obstacles toward a coordinated effort to address this persistent problem.

ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Direct Implementation Tribal Cooperative Agreements (DITCAs)
  • Provide $5 million for effective and efficient on-the-ground environmental protection.

DITCAs provide a cost-effective and efficient mechanism for tribes to accomplish the statutory responsibilities assigned to the EPA. DITCAs enable tribes to conduct environmental activities on behalf of the agency on their lands. As such, activities occur under federal authority, and DITCAs do not result in disputes over jurisdictional authority that previously hampered the implementation of environmental protection programs. DITCAs are flexible enough to address high-priority tribal environmental problems and also allow tribes the opportunity to exercise their programmatic capability prior to seeking and receiving tribal regulatory authority for applicable programs.

Thus far, the EPA has awarded more than 20 DITCAs to Indian tribes to undertake such activities as Clean Air Act Title V permitting, development of smoke management plans, National Pollution...
Discharge Elimination System storm water permitting compliance, water quality monitoring, public water system supervision, and the hiring of a tribal pesticide circuit rider. DITCAs fund the actual activity (e.g., inspections, compliance assistance, etc.) and therefore provide environmental results and meet strategic targets prized by both tribes and the EPA. Despite clear value and effectiveness, DITCAs do not come with dedicated funding so funding must be pieced together through discretionary program funding. While there is a strong interest among tribes to enter into more DITCAs, they are constrained by limited resources.

ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Clean Air Act Section 103/105 Grants for Indian Tribes

- Provide $14 million in Clean Air Act Section 103/105 grants to tribes.

By finalizing the Tribal Authority Rule (TAR) in 1998, EPA determined that tribes may be treated in a manner similar to states for virtually all provisions of the Clean Air Act. Tribes are not only eligible for Section 103 grant funding to conduct air quality monitoring, emissions inventories, and other studies and assessments, but they may also obtain Section 105 grant funding to implement Clean Air Act regulatory programs.

In anticipation of the TAR, the EPA increased its funding for tribal air grants during a time when few Indian tribes were conducting air-related activities. This funding, however, has remained relatively flat during the past 10 years, ranging between $10.7 million and $13.3 million. At the same time, the number of tribes seeking Sections 103 and 105 grant funding has substantially increased to the point that any carryover of tribal air funding from previous years has now been exhausted. The EPA and its regional offices are forced to turn away a number of tribes for 103 and 105 grant funding requests. Tribes, however, are facing many of the same air-related issues that neighboring state and local jurisdictions are facing, but are significantly underfunded to address such issues. Tribal air grant funding must be increased by $0.7 million over the FY2010 enacted level of $133 million to a total of $14 million to more accurately reflect the air quality-related needs of tribes across the nation.
The vitality of natural resources is integral to the health of American Indian and Alaska Native communities, cultures, sustenance, and economies. The ecological practices tribal peoples have cultivated for millennia are inherently time-tested, sustainable, and practical. As such, they are gaining increasing validation by the larger society as valuable tools in efforts to protect natural resources and address climate change. Simultaneously, because tribes rely deeply upon their natural resources, the effects of climate change are disproportionate and profound.

For centuries and to this day, the value of tribal ecological knowledge and natural resources to tribal peoples and the nation have not been matched with tangible support. Now is the time to match that support, as climate impacts proliferate.

Addressing decades of neglect in the federal trust responsibility requires fair and equitable opportunities as a first practical step, not enhanced assistance. Dozens of natural resource programs across the federal agencies that have assisted state and local governments for decades still deny tribes the mere opportunity for access because of barriers in statutes, regulations, and/or practices.

The Bureau of Indian Affairs (BIA), which administers many key tribal natural resource programs within the Department of the Interior (DOI), consistently experiences funding increases at lower
rates and funding decreases at higher rates than their DOI counterparts. Though tribal lands compose approximately 16 percent of the lands under DOI oversight, its Climate Change Adaptation Initiative sought $138 million and $171 million in funding in FY2010 and FY2011 respectively, of which only $0 and $200,000 was directed at BIA.

Key Recommendations

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

Climate Change Adaptation Initiative

• Provide $15 million in funding.

Tribal peoples, lands, and infrastructure are disproportionately affected by climate change and tribal governments experience unique challenges that are difficult to plan for and address, putting them behind other governments in terms of preparation. The disparities and tribal needs are multilayered. Within the context of DOI, while other DOI bureaus focus primarily on lands and natural resources and have existing personnel to implement climate programs, BIA must focus on many other things, including tribal infrastructure, services, and economic development, and many tribal governments do not have sufficient personnel to develop climate action plans. It is profoundly unjust that the FY2011 DOI budget request for $171.3 million to fund the Climate Change Adaptation Initiative provided only $200,000 (and $0 in FY2010) to the BIA. Tribes request $15 million of the Initiative’s FY2012 budget to remedy this inequity, to address tribal natural resources, and to build tribal capacity to plan and implement programs in the face of climate change.

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

BIA Water Management, Planning and Pre-Development Program

• Restore funding to the FY2003 level of $8.298 million.

The BIA Water Management, Planning and Pre-Development program (Water Resources) is a Trust Natural Resources program, and funds are used to assist tribes in protecting and managing their water resources. From FY2003 to FY2010, funding for Water Resources declined 33 percent from $8.298 million to $5.624 million. To meet the significant tribal demand and honor treaty rights, funding should be restored to the FY2003 level.
The Water Rights Negotiation/Litigation program (Water Rights) is a Real Estate Services program, and funds are used to defend and assert Indian water rights. From FY2003 to FY2010, funding for Water Rights declined 30 percent, from $10.923 million to $7.685 million. The need to resolve water rights claims is particularly important for tribes, states, and other stakeholders as population growth and climate change affect the water resources supply and demand.

The BIA’s Endangered Species Program is the only program that provides tribes with technical and financial assistance to protect endangered species on Indian trust lands. From FY2002 to FY2010, funding for this critical program declined 59 percent to $1.249 million.

Three key programs that empower tribes to manage reservation fish and wildlife resources across the nation are Tribal Management/Development (TMD), Wildlife and Parks, and Natural Resources. These programs help meet the growing national demand for outdoor recreation and tourism and provide aid to protect millions of acres of habitat necessary for the conservation of fish, wildlife, and plant resources.

From FY2002 to FY2010, funding for the TMD program declined 40 percent from $9.333 million to $5.638 million. During the same period, several decades-old recurring TMD programs were eliminated.
These programs included the Lake Roosevelt Management, Upper Columbia United Tribes, Wetlands/Waterfowl Management, and Intertribal Bison Cooperative. Congress restored funding for these programs in FY2010, and the BIA restored them to the budget structure in FY2011. These actions need to continue in FY2012. These investments will substantially increase tribal conservation successes and meet the federal government’s trust responsibility. Of the $20 million requested, $5 million is for Conservation Law Enforcement Officers. The BIA has recognized the critical need that tribes have to enforce fish and game laws on their lands and has included a budget justification for this amount in its FY2012 budget process.

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

BIA Wildlife and Parks Tribal Priority Allocations

- Increase funding for Fish Hatchery Maintenance by $2.148 million to $5 million.
- Increase funding for Fish Hatchery Operations by $1.5 million.
- Increase the Wildlife and Parks Tribal Priority Allocation to $20 million.

BIA conducted a comprehensive needs assessment study in FY2006 at the request of the Congress, which identified a $48 million need in hatchery and rehabilitation costs. In FY2010, Fish, Wildlife and Parks received a welcome yet still inadequate $4 million increase for Fish Hatchery Operations and Maintenance projects.

For Fish Hatchery Maintenance, tribes request a $2.148 million increase in funding, to a total amount of $5 million for FY2012, and an additional $1.5 million in operations for FY2012 at 88 tribal fish hatcheries across the country.

The base Tribal Priority Allocations (TPA) that funds tribes’ fish and wildlife protection activities has remained flat for years, at just under $5 million. Funding for Wildlife and Parks TPA should be increased by $15 million in FY2012 to expand the capacity of tribal fish and wildlife management departments to meet the needs of their communities and work with federal, state, and local partners.

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

BIA Natural Resources Tribal Priority Allocations

- Increase funding to $20 million.

The Natural Resources program fulfills Indian trust responsibilities through the strategy of improved management, protection, and development of Indian land and natural resource assets. Funding for this TPA program has remained flat for years, at just under $5 million. Funding for the Natural
Resources program should be increased by $15 million in FY2012. This investment will substantially increase tribes’ land and resource management capabilities.

**DEPARTMENT OF THE INTERIOR**

**Interior, Environment Appropriations Bill**

**BIA Rights Protection Implementation**
- Increase funding to $49.5 million.

This BIA program supports the exercise of off-reservation hunting, fishing, and gathering rights for 49 tribes located in the Pacific Northwest and Great Lakes regions and their five umbrella intertribal fish and wildlife organizations. These rights are secured by treaties and specific legal adjudications.

Congress increased funding for Rights Protection Implementation in FY2010 to $30.451 million, and tribes appreciate this recognition of previous underfunding. The FY2012 request to provide a further increase of $19 million is based on the critical role of these resources in tribal economic, subsistence, cultural, and medicinal practices; the direct impact of climate change on these resources (e.g., loss of fisheries habitat, invasive species); and the growing need for intertribal and intergovernmental coordination on natural resource adaptation in response to climate change.

**DEPARTMENT OF THE INTERIOR**

**Interior, Environment Appropriations Bill**

**BIA Invasive Species Program**
- Provide $5 million in funding.

The Invasive Species program (formerly called Noxious Weed Eradication) provides critical funds to tribes to control noxious and invasive species. Invasive species are particularly harmful to tribes because they affect plants, animals, and other wildlife that are essential to tribal members for sustenance, medicines, ceremonies, cultures, and economic health.

Invasive species cause $120 billion in damage each year across the United States, with roughly $3 billion on Indian trust land. Federal Invasive Species spending on non-Indian lands is at least $1.3 billion each year. On average, the Interior Department spends five times more on non-Indian land than on Indian land for invasive species.

This is the only funding stream that provides invasive species protection to Indian trust land. It is a critical element of the department’s Invasive Species Crosscut Initiative, particularly as tribal trust land is often contiguous to other federal lands. Funding for this program declined 50 percent from $2 million in FY2002 to $1 million in FY2009. In FY2010, funding for this program increased to $3
While this investment is appreciated, persistent inequity in funding compared to non-Indian federal lands and the disproportionate impact of invasive species on Indian trust land justifies a request for $5 million for FY2012.

**DEPARTMENT OF THE INTERIOR**

*Interior, Environment Appropriations Bill*

**Fish and Wildlife Service’s Tribal Wildlife Grants Program**

- Provide $8 million in funding.

After years of declining allocations, the State and Tribal Wildlife Grants Program received $90 million in FY2010, a $15 million increase from FY2009, with $7 million provided to tribes. This is the only program that expressly allows tribes to address climate change impacts on their natural resources, and it will be a key program in the coming decades as tribes and the nation address climate influence on natural resources. Given past underfunding of this initiative, tribes request an increased appropriation to $8 million.

**DEPARTMENT OF THE INTERIOR**

*Interior, Environment Appropriations Bill*

**BIA Forestry**

Of the total 56 million acres of federal Indian trust land, 18 million acres are forest lands, within which 5.7 million acres are designated for commercial forestry. In 1993 and 2003, independent reports prepared for Congress on BIA Forestry found that tribal forests received about one-third of the funding provided to forests managed by the U.S. Forest Service (USFS) on a per-acre basis. The 2003 report found that BIA Forestry needed an additional $120 million a year, for a total of $170 million annually, to achieve per-acre funding parity with USFS lands. Since then, the funding disparities have widened.

- Provide $31.2 million in Forestry Tribal Priority Allocations.

Between FY2004 and FY2009, comparing programs with roughly equivalent functions, the USFS National Forest System Forest Products Program and BLM Public Domain Forest Management Program budgets increased more than 25 percent (to $333 million and $10 million respectively), while the funding for the BIA Tribal Priority Allocations for Forestry and BIA Forestry Projects experienced a 3.8 percent increase and 0.7 percent decrease respectively ($25.5 million and $17.6 million), adjusted for inflation. Meanwhile, tribal forests are significantly more productive than USFS forests, generating on a per-acre basis about 250 percent of the harvest on USFS lands. These disparities must be addressed, particularly in light of the federal government’s trust responsibility for tribal
natural resources, the 2,100 miles of common boundary that USFS and tribal forests share, and the fact that climate change affects all lands—it does not heed political/jurisdictional boundaries.

- Provide $23.6 million for BIA Forestry Projects.

To remedy historical funding inequities and address the need for co-management of common forests, we request an increase to account for the above-mentioned disparity between federal and tribal forests (during FY2004-FY2009). Specifically, the BIA Forestry Tribal Priority Allocations should be increased by $5.6 million, for a total of $31.2 million. The BIA Forestry Projects line item should be increased by $6 million to $23.6 million, to be divided between BIA Forest Development ($5 million) and the Timber Harvest Initiative ($1 million). While this request is far short of the 2003 report recommendation that BIA’s total Forestry budget be increased $120 million annually to achieve per-acre parity with the USFS, it is an important step in the right direction.

ENVIRONMENTAL PROTECTION AGENCY

Interior, Environment Appropriations Bill

Great Lakes Restoration Initiative
- Maintain funding at $3 million.

Tribes in the Great Lakes region have joined together to establish a model of federal-state-tribal collaboration, which there is great interest in replicating across the country. This initiative provides an overall allocation of $475 million in FY2010 for restoration activities in the Great Lakes region. Of this amount, $3 million is allocated to tribes. Funding for tribes under the Great Lakes Restoration Initiative should be maintained in FY2012 at the FY2010 enacted level.
Authorize or Enhance Tribal Access to Federal Natural Resource Programs

The Administration and Congress must grant tribal governments and entities access to federal natural resource programs from which they have been excluded for statutory, regulatory, policy, and programmatic reasons. Tribal eligibility must be achieved through statutory amendments, annual authorizations, regulatory amendments, and administrative interpretations enabling such eligibility. Noteworthy programs include:

**Coasts and Estuaries**

**DEPARTMENT OF COMMERCE**
**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**
**COASTAL ZONE MANAGEMENT ACT**

The health of America’s coasts is essential to the vast biodiversity of species in our nation’s waters. Tribes located on coastal zones and Great Lakes depend heavily on them for the vitality of their
communities, economies, subsistence practices and cultures. The Coastal Zone Management Act is a key federal program providing coastal states and territories approximately $87 million per year to preserve, protect, restore, and enhance the resources of the nation’s coastal zone.

DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
COASTAL ZONE MANAGEMENT ESTUARINE RESEARCH RESERVES
This program provides more than $20 million per year to states and territories. It excludes tribal government participation in the development, acquisition, monitoring, research, education, operation, and facilities construction for National Estuarine Research Reserves for the purpose of creating natural field laboratories to gather data and educate people about the natural and human processes occurring within the estuaries of the coastal zone.

DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
COASTAL WETLANDS PLANNING, PROTECTION AND RESTORATION ACT
This Act provides competitive matching grants to coastal states for coastal wetlands conservation projects. The Coastal Wetlands Planning, Protection, and Restoration Act (Section 305, Title III, Public Law 101-646 U.S.C. 3954) established the National Coastal Wetlands Conservation Grant Program to acquire, restore, and enhance wetlands in coastal states.

ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF WATER, OFFICE OF WETLANDS, OCEANS AND WATERSHEDS,
OCEANS AND COASTAL PROTECTION DIVISION
NATIONAL ESTUARIES PROGRAM
This program, authorized under Section 320 of the Clean Water Act (CWA), provides approximately $35 million per year to states and local governments to evaluate, plan for, and implement protection of estuaries in the United States that are deemed to be threatened by pollution, development, or overuse. EPA implements this program and oversees all National Estuaries Program (NEP) activities in 28 estuaries. Tribes are not directly eligible for funding under this statute, but rather use funding from other CWA programs to participate. Tribes should not have to divert resources from other programs to participate.
Conservation and Recreation

DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
LAND AND WATER CONSERVATION FUND
The Land and Water Conservation Fund, established in 1965, enables four federal land management agencies as well as state and local governments to acquire lands for outdoor recreation, help preserve wildlife habitat, maintain the pristine nature of wilderness areas, and provide clean water. The Fund accumulates approximately $900 million annually from designated sources.

DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND
This Fund provides approximately $73 million per year to any state or territory to assist in developing programs for the conservation of endangered and threatened species. Tribes are not eligible to receive funds directly from this program but only through states, which contradicts the nation-to-nation relationship between the federal government and tribes.

Forests

DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE
COOPERATIVE FOREST ASSISTANCE ACT
Given the increasingly disadvantageous funding trends for tribal forests relative to other forests, tribes must have access to other forestry programs. The principal programs administered by the Forest Service under the Cooperative Forest Assistance Act (CFAA) are the Forest Legacy Program and the Forest Stewardship Program. The Forest Legacy Program ($76 million in FY2010) assists states in acquiring conservation forest land. The Forest Stewardship Program ($29 million in FY2010) helps states manage state and private lands. In both cases, tribal governments and landowners cannot directly participate. Rather, the state determines whether funding will trickle down to them. Tribes receive virtually zero funding from either program. This arrangement is inconsistent with the nation-to-nation relationship between the federal government and Indian tribes.
Energy

Though tribal lands contain 10 percent of the nation’s traditional and clean energy resources, tribal governments face mounting challenges in their efforts to contribute to national priorities related to energy independence, clean energy, economic development, and job creation. These challenges are both identified and largely addressed in the Indian Energy Parity Act (S. 3752). Leading barriers to energy development include excessive, inefficient, and outdated bureaucratic requirements, and lack of equitable access to the transmission grid, financing, and federal funding. For example, oil and gas developers must pay a $6,500 application fee to obtain a permit to drill in Indian Country, while in some states the cost is as low as $25.

The manifestations of these barriers are profound. On the clean energy front, tribal wind and solar energy potential can provide, respectively, 14 percent and 4.5 times the nation’s energy needs. Yet, only one commercial scale renewable energy project operates in Indian Country. Meanwhile, the Department of the Interior (DOI) has assessed two dozen potential sites for large-scale solar power installations, and in 2010, the Bureau of Land Management (BLM) approved six solar projects that would produce about 3,000 megawatts. With regard to traditional energy, Indian tribes boast nearly a quarter of the nation’s on-shore oil and gas reserves and developable resources and one-third of the West’s low-sulfur coal. However, existing tribal energy production represents less than 5 percent of current national energy production. The DOI estimates that undeveloped reserves of coal, natural
gas, and oil on tribal lands could generate nearly $1 trillion in revenues for tribes and surrounding communities. This untapped energy potential undermines Indian Country’s capacity to contribute to the national transmission grid upgrade to meet 21st century needs.

The significant energy resources on tribal lands stand in stark contrast to the fact that many reservations with vast energy potential are home to some of the poorest communities in America. The 2000 Census reported that 14.2 percent of tribal homes lack access to electricity compared to less than 1 percent of non-Native homes. Many Alaska Native villages are dependent on diesel fuel to heat their homes at a cost of $6 to $9 per gallon, often compelling residents to choose between food and fuel during the winter months.

Over the past decades the federal government has not supported tribal energy and energy efficiency needs in a manner comparable to assistance provided to state governments. Under the American Recovery and Reinvestment Act (ARRA) alone, the Department of Energy (DOE) provided nearly $12 billion directly to states under its State Energy Program, Weatherization Program, and Energy Efficiency and Conservation Block Grant Program, from which only $64 million was provided directly to Indian tribes.

The development of tribal energy, and tribal participation in energy efficiency programs, will have significant positive impacts for tribes and surrounding communities. To ensure the economic vitality of Indian Country and the nation as a whole, the federal government must provide Indian Country with opportunities to develop their energy resources by removing barriers and providing equitable access to federal programs.

**Key Recommendations**

**DEPARTMENT OF ENERGY**  
*Energy, Water Appropriations Bill*

**Office of Indian Energy Policy and Programs (OIEPP)**
- Provide $10 million for OIEPP programs.

In December 2010, DOE appointed the first director of the Office of Indian Energy Policy and Programs (OIEPP) since 2008. The FY2010 president’s budget requested $5 million for that office, which was not accessed because the office lacked a director. Given the vast scope and diversity of tribal needs, it is essential that OIEPP be funded at $10 million to ensure that the Office can effectively coordinate tribal-related energy programs and priorities within the agency and across agencies, and can collaborate with tribal governments and energy interests to address the many challenges that impede energy projects on tribal lands.
Tribes recognize DOE’s Tribal Energy Program as an effective program that provides a range of services related to tribal renewable energy development. Tribal demand for funding greatly exceeds current resources, with $52 million in tribal demand met by only $6 million in available funding in FY2009. Given the extensive untapped renewable energy potential on tribal lands and historic and present-day inequities in funding, tribes request a full appropriation of the $20 million in funding that is authorized for this highly effective program. Some tribes are deterred from participating due to the cost share requirements, and tribes request that DOE reduce or waive those requirements on an as-needed basis.

As part of the Consolidated Appropriations Act of 2008 (P.L. 110-161), Congress authorized the imposition of a "$4,000 fee per new application for permit to drill that the [Bureau of Land Management] shall collect upon submission of each new application." This fee authority was subsequently included in the FY2009 and FY2010 appropriations acts where the fee amount was increased to $6,500. The fee targeted energy development on federal lands, not tribal trust lands, but the unintended consequence of this rider is to significantly deter oil and gas development on Indian lands. The legislative language does not specify that the application for a permit to drill fee applies to Indian lands, but the BLM issued a memorandum that mandated the inclusion of Indian minerals in the fee (BLM Instruction Memorandum No. 2008-043). The FY2012 appropriations bill should explicitly exempt tribal lands from these onerous fees that create a barrier to economic development and job creation.
several challenges. Prior to 2009, tribes had not received funding comparable to what states received. Past funding allowed states to develop the institutional capacity to apply for, manage, and implement energy efficiency activities, an opportunity that had not been afforded to tribes. Many tribes had to recruit staff with limited prior experience in energy efficiency projects to apply for and implement the EECBG programs. These capacity challenges underscore the need for a 1 percent increase in the statutory set-aside (to a total of 3 percent), with an expansion of eligible activities to include the development of tribal institutional capacity to implement the program.

DEPARTMENT OF ENERGY

   Energy, Water Appropriations Bill
   Weatherization Program
   • Establish a 5 percent tribal set-aside in the Weatherization Program (Wx).

Five percent of the funding for the Wx program should be set aside to serve tribal governments and their citizens. Eighty percent should be provided directly to tribal governments. The remaining funds should support key DOE activities to build institutional capacity to develop a tribal weatherization/energy efficiency program; assess and improve the effectiveness of state Wx offices in meeting tribal needs; develop a program to recruit, train, and employ tribal members; and provide funding to states to subcontract with tribes and/or Native businesses to run the program.

DEPARTMENT OF ENERGY

   Energy, Water Appropriations Bill
   Indian Energy Project Loan Guarantee Program
   • Provide $50 million for the Indian Energy Project Loan Guarantee Program.

Energy development is highly capital intensive, and projects require leveraging and private financing. Prior to ARRA enactment, conservative estimates of shovel-ready renewable energy projects on tribal lands exceeded $500 million. Shovel-ready conventional energy projects on tribal lands totaled many times that estimate. DOE’s Indian Energy Project Loan Guarantee Program has never been funded. An appropriation of $50 million will support at least $500 billion in private financing to help jump-start some of the existing tribally owned energy projects that are poised for deployment.
Tribal Energy Resource Agreements authorize consenting Indian tribes to exert greater degrees of control over the development of their energy resources. TERAs provide increased local control and authority but balance this by requiring tribes to take greater responsibility for implementing environmental regulations. TERAs are critical tools to develop tribal energy resources. An appropriation of $5 million will authorize more than 10 Indian tribes to undertake comprehensive assessments of their energy development potential and conduct the necessary assessments and consultations to develop their energy resources. This program could grow to include 10-12 additional tribes per year for the following five years to reach an annualized budget of $25 million.
While significant strides have been made in recent years, Indian tribes, Alaska Native communities, and Native Hawaiians still face some of the most deplorable housing and socioeconomic conditions in the United States. Despite some improvements and sizable investments in Indian housing as part of the American Recovery and Reinvestment Act, Native households face demonstrable ongoing needs. To close the gap, sustained federal investment is essential.

Figure 7: Overcrowding and Lack of Basics in Native Households Compared to the U.S. Population

Source: U.S. Census Bureau, 2000 and U.S. Government Accounting Office, 2005. Note: At time of publication, updated 2010 Census figures were not available. Therefore, data displayed is the most recent data publicly available.
Building on the strong foundations of Indian self-determination, Congress passed the Native American Housing Assistance and Self-Determination Act (NAHASDA) in 1996, which revolutionized how federal housing assistance is made available to Native communities. NAHASDA consolidated existing housing funds into a single block grant—the Indian Housing Block Grant (IHBG)—and increased Indian tribes’ role in the design and implementation of tribal housing and related infrastructure programs. Fourteen years later, NAHASDA has resulted in tens of thousands more housing units being constructed as well as increased tribal capacity to address related infrastructure and economic development challenges.

NAHASDA authorizes several programs and activities that are in dire need of additional funding. These include IHBG; Indian Community Development Block Grant (ICDBG); Sections 184 and 184A Guaranteed Loan Program; Title VI Guaranteed Loan Program; NAHASDA’s Training and Technical Assistance Funding; and Title VIII Housing Assistance for Native Hawaiians.

**Key Recommendations**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Transportation, Housing and Urban Development Appropriations Bill**

- Fund the Indian Housing Block Grant at $875 million.

IHBG funding is the means of support for housing development, construction, infrastructure, maintenance, and repair in Native communities. These funds are also important in helping Indian tribes and tribally designated housing entities (TDHEs) leverage other funds, such as low-income housing tax credits. Even at its highest enacted level, the IHBG has not met all Indian housing needs. Housing construction costs are exacerbated by inadequate infrastructure and rising costs for building materials, energy, transportation, and utilities.

Despite a documented annual need of $1 billion in federal funds for the IHBG, appropriations have never exceeded an annual appropriation of $700 million.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Transportation, Housing and Urban Development Appropriations Bill**

- Fund the Indian Community Development Block Grant at $100 million.

Community Development Block Grant funds are dedicated to improving not only housing but the overall economic and community development foundation of tribal communities. The ICDBG funds
are essential to tribal economies and community development efforts, such as a variety of commercial, industrial, and agricultural projects.

The budget level has decreased over the past 10 years, and funding must be increased to a level that will have real impact in some of the neediest communities in America. These cuts are even more troublesome considering that Native communities often lack the most basic physical infrastructure and tribal economies are often dependent on transfer payments rather than a vigorous, tax-paying economy.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
Transportation, Housing and Urban Development Appropriations Bill
- Fund Title VI at $2 million.

Native communities continue to face enormous challenges in capital formation and capital access. NAHASDA contains Title VI, which assists Indian Housing Block Grant recipients (borrowers) who want to finance eligible affordable housing activities, but are unable to secure financing without the assistance of a federal guarantee. Eligible activities under Title VI include rental assistance, development services, management services, crime prevention and safety activities, and model activities. This program provides tribes with an additional resource to leverage limited dollars. The Title VI Loan Guarantee is a key financial tool for Indian tribes and their housing authorities to invest in housing and community development efforts. This program should be funded at $2 million—the FY2010 appropriated level.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
Transportation, Housing and Urban Development Appropriations Bill
- Fund the Section 184 Program at $9 million.

Created in 1992, the Section 184 program provides 100 percent reimbursement to private lenders in case of home loan default. Indian tribes have participated in this program with an extremely low default rate, even as defaults in the broader American economy have increased substantially. Using Section 184, Indian tribes or tribal members can purchase an existing home; obtain single-close construction loans for stick-built or manufactured homes on a permanent foundation; obtain rehabilitation loans; or obtain both a purchase and rehabilitation loan. This program, which is underutilized in Indian areas with land that is held in trust, has grown as Indian tribes and TDHEs expand their housing programs beyond low-income programs, tailoring them to meet the needs of their people. In spite of pronounced need for homeownership opportunities, funding for the Section 184 program has been essentially flat for the last 10 years.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Transportation, Housing and Urban Development Appropriations Bill

- Fund NAHASDA’s Training and Technical Assistance at $4.8 million.

The training and technical assistance (T&TA) to be provided by a national organization representing Native American housing interests is a critical resource for Indian tribes and TDHEs, which rely on T&TA to train housing employees and effectively implement their housing programs. T&TA includes developing model policies, which saves tribes tens of thousands of dollars per year.

The National American Indian Housing Council (NAIHC) is the only national Indian housing organization that provides comprehensive T&TA to tribal nations and their housing entities. Because they know the value added by NAIHC, the NAIHC members have voted unanimously during each of their annual conventions since 2006 to set aside funds from their IHBG funding for NAIHC’s T&TA program. In addition, NAIHC members have expressed concerns about the quality of training provided by HUD contractors. To ensure high-quality T&TA, the NAIHC should be funded at $4.8 million.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Transportation, Housing and Urban Development Appropriations Bill

- Fund Title VIII’s Native Hawaiian Housing Block Grant at $20 million.

Since 2000, this funding has been the seminal source for housing assistance for Native Hawaiians who are eligible to reside on Hawaiian Home Lands. Activities eligible to be funded with Native Hawaiian Housing Block Grant (NHHBG) assistance include new construction, rehabilitation, acquisition, infrastructure, and various support services. The Department of Hawaiian Home Lands (DHHL), the sole recipient of NHHBG, will focus the NHHBG funds on increasing the supply of affordable housing units or rehabilitating existing units to relieve some of the overcrowding pressures and substandard living environments experienced by many low-income Native Hawaiian households. In addition, the DHHL will support healthy and safe communities, empower resident organizations, and promote self-sufficiency for Native Hawaiian families. The DHHL will focus on developing the capacity of resident organizations and partnering entities (e.g., nonprofit entities) so they can successfully apply for and administer NHHBG funds. As is the case for other NAHASDA authorizations, funding for Title VIII has had a negative trajectory and was simultaneously eroded by inflation.
Transportation

Tribes must have transportation infrastructure that permits safe travel and promotes economic development. Transportation infrastructure is critical to linking people within tribal communities and to other surrounding areas in order to strengthen economic development and improve the delivery of tribal government services. Within the Indian Reservation Roads Program (IRR), there are more than 120,000 miles of roads in Indian Country owned by the BIA, Indian tribes, states, and counties. However, these roadways still comprise the most underdeveloped road network in the nation, even though it is the primary transportation network for all residents of and visitors to American Indian and Alaska Native communities. More than 60 percent of the system is unimproved earth and gravel, and approximately 8,000 IRR bridges (24 percent) are classified as deficient.

Theses inadequate road conditions make it very difficult for tribal community residents to travel to hospitals, stores, schools, and employment centers. The poor condition of these roads, bridges, and transit systems jeopardizes the health, safety, security, and economic well-being of tribal members and the traveling public. Tribal roads and bridges are often in such disrepair that children are prevented from attending school, sick and injured people cannot reach hospitals, and emergency responders cannot provide timely assistance to people in need.
This inadequate transportation infrastructure has a tangible impact on tribal communities. Community members suffer injury and death by driving and walking along reservation roadways at rates far above the national average. Over the past 25 years, 5,962 fatal motor vehicle crashes occurred on Indian reservation roads, with 7,093 lives lost. While the number of fatal crashes in the nation declined 2.2 percent during this time period, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5 percent. Adult motor vehicle-related death rates for American Indians/Alaska Natives are more than twice that of the general population.

The American Recovery and Reinvestment Act provided key funding for safety, maintenance, and construction transportation infrastructure. These investments helped a great deal but also demonstrate the need for significant changes and sustained investments in federal transportation safety programs serving Indian Country.

**Key Recommendations**

**DEPARTMENT OF TRANSPORTATION**

**Transportation, Housing and Urban Development Appropriations Bill**

**Indian Reservation Roads (IRR) Programs**
- Provide $800 million for the Indian Reservation Roads Programs.
- Provide $75 million for the Indian Reservations Roads Bridge Program.

As outlined above, IRR roads and bridges are in serious need of sustained investment. These funding levels will support the development and maintenance of critical infrastructure to serve tribal citizens and residents in surrounding communities.

**DEPARTMENT OF TRANSPORTATION**

**Transportation, Housing and Urban Development Appropriations Bill**

**Tribal Technical Assistance Programs**
- Provide $4.2 million for Tribal Technical Assistance Programs.

It has been more than a year since the authorization of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, P.L. 109-59), expired on September 30, 2009. SAFETEA-LU is crucial to Indian Country as it authorizes all the current tribal transportation provisions, which include the Indian Reservation Roads Program (IRR), Indian Reservation Roads Bridge Program (IRRB), and the Tribal Transit Grant Program (TTGP), and other transportation programs. It is likely that SAFETEA-LU will be extended through 2011 and it is critical that Congress support adequate and sustained funding levels for tribal transportation programs.
DEPARTMENT OF TRANSPORTATION

Transportation, Housing and Urban Development Appropriations Bill

Tribal Transit Program
• Provide $35 million for the Tribal Transit Program.

The SAFETEA-LU enactment included the Transportation on Indian Reservations Section 5311(c), also known as the Tribal Transit Program. This program provides tribal members with public transportation access for employment, health services, education, and business opportunities. It has been greatly successful; in the first year of operation 63 tribes were awarded transit funding. This program continues to bring severely needed transit services to Indian Country and surrounding communities.

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

BIA Roads Maintenance
• Provide $150 million for the BIA Road Maintenance Program.

In 2003, the BIA formally acknowledged that at least $120 million per year was needed to maintain BIA-owned roads and bridges to an adequate standard, and $50 million per year was needed for bridge rehabilitation and replacement. Costs to maintain these roads have risen sharply in the past five years due to high inflation costs for construction, yet in FY2010-11, only $26.5 million was enacted for roads maintenance at BIA.
Historic and Cultural Preservation

As part of the inherent rights of self-governance and self-determination, tribes directly manage preservation, maintenance, and revitalization efforts to maintain culture and traditions. Tribal nations also have the rights to control their ancestors’ remains and sacred cultural items.

Key Recommendations

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

Native American Graves Protection and Repatriation Act (NAGPRA)
- Provide $4 million for Section 10 of NAGPRA, and create a line-item for grants for the purpose of working with culturally unidentifiable remains.

Section 10 of NAGPRA authorizes the Secretary of the Interior to award grants to museums, Indian tribes, and Native Hawaiian organizations for the purposes of assisting in consultation, documentation, and repatriation of Native American human remains and cultural items. Over the
past few years, the National Park Service’s NAGPRA program has used a high percentage of funds from the Section 10 grant program to cover its administrative costs, resulting in fewer dollars going to the tribes. Further, in the report released in July 2010 assessing NAGPRA compliance on the 20th anniversary since enactment, the Government Accountability Office determined that “key federal agencies still have not fully complied with the act.”xv Additionally, during FY2010, many tribes were denied funding because of inadequate federal funding.xvi Tribes should receive priority in Section 10 grant awards, and a separate line-item should be created to fund work specifically addressing culturally unidentifiable remains.

- Provide a 10 percent increase for investigations into failure to comply with NAGPRA, and create a line-item for investigations of museum complaints made by tribes.

The number of tribal complaints related to museums failing to comply with NAGPRA has grown exponentially in the past few years, and the department is unable to respond to the tribes in a timely manner. Dedicated funding for investigations of tribal complaints is essential for the spirit of NAGPRA to be fully implemented.

DEPARTMENT OF THE INTERIOR

Interior, Environment Appropriations Bill

Tribal Historic Preservation Officer Program
- Provide $15 million for the Tribal Historic Preservation Officer Program.

In the 1992 amendments to the National Historic Preservation Act, tribes were authorized to assume historic preservation activities and responsibilities with respect to Indian lands via the Tribal Historic Preservation Officer (THPO) program. This program is operated by the National Park Service and is funded by the Historic Preservation Fund. It is estimated that there will be at least 100 tribes operating THPO programs in FY2012. To provide a minimum level of services, the offices require an average of $125,000.
Support for Tribal Governments

Contract Support Costs (CSC) at BIA and IHS and Tribal Grant Support Costs (TGSC) for Tribally Operated Schools directly support the governmental functions of tribes. Failure to fully fund CSC and TGSC penalizes tribes in the exercise of their self-determination rights under the law. Steady funding is necessary for tribes to fulfill their role as governments.

Key Recommendations

DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF HEALTH AND HUMAN SERVICES

Interior, Environment Appropriations Bill

Contract Support Costs
- Increase IHS Contract Support Costs by $100 million, for a total of $543 million.
- Increase BIA Contract Support Costs by $50 million, for a total of $212 million.

Every tribe in the United States, directly or through intertribal consortia, operates one or more contracts with the IHS or the BIA under the Indian Self-Determination and Education Assistance
Act (ISDA, P.L. 93-638). ISDA establishes a critical mechanism to maximize tribal self-determination by moving essential governmental functions from federal agency administration to tribal government administration. The statute requires that IHS and BIA fully reimburse every tribal contractor for the “contract support costs” that are necessary to carry out the transferred federal activities. Cost-reimbursable government contracts similarly require payment of “general and administrative” costs. Full payment of fixed contract support costs is essential. Without this support, offsetting program reductions must be made, vacancies cannot be filled, and services are reduced, all to make up for the shortfall.

For the past 15 years, the Administration has failed to request full funding for contract support cost payments, and the resulting shortfalls have grown. The only meaningful increase in the past 10 years occurred in FY2010, when Congress made a $116 million increase for IHS CSC payments and a $19 million increase for BIA CSC payments due to President Obama’s advocacy. Even still, these increases left a net shortfall of $100 million in IHS CSC requirements and approximately $50 million in BIA CSC requirements. NCAI Resolution #ABQ-10-005 calls upon President Obama and Congress “to finally close the gap in funding contract support cost requirements.”

The recent FY2010 CSC increases produced a stunning increase in Indian Country jobs. For example:

- the Cherokee Nation received an increase of nearly $8 million and added 124 positions in the Nation’s health care system;
- the Forest County Potawatomi Community received a nearly $400,000 increase and added 13 positions;
- the Little River Band of Ottawa Indians received almost $300,000 and added six positions to its clinical operations;
- the Riverside San Bernardino County Indian Health consortium received $2 million and added 23 positions; and
- the Southcentral Foundation tribal organization received nearly $9 million and added 97 positions.

These are recurring funds that enabled the hiring of hundreds of tribal employees across the nation in critical health care positions. Recent BIA CSC distributions for FY2010 have led to similar increases in staffing for law enforcement, real estate, probate, education, and employment assistance programs.

The FY2010 funding level for IHS contract support costs was $398 million. President Obama recommended, and the House appropriations subcommittee approved, an increase of $45 million in this line-item to $443 million. The National Tribal Contract Support Cost Coalition recommends an increase in this line-item for FY2012 of $100 million, bringing the total line-item to $543 million.
The FY2010 funding level for BIA contract support costs was $147 million. The president recommended, and the House appropriations subcommittee approved, an increase of $15 million in this line-item to $162 million. The National Tribal Contract Support Cost Coalition recommends an increase in this line-item for FY2012 of $50 million, bringing the total line-item to $212 million.

**Tribal Grant Support Costs (TGSC) for Tribally Operated Schools**

- Provide $72.3 million for Tribal Grant Support Costs.

The operation of schools by tribes or locally elected tribal school boards is a major exercise of tribal self-determination, encouraged by federal Indian policy for the last 35 years. Tribes and tribal organizations that exercise this option are entitled by law to receive Tribal Grant Support Costs or TGSC (formerly known as Administrative Cost Grants) to cover the administrative or indirect costs incurred when they take over a school. Currently, 124 of the 183 BIE-funded schools are operated by tribes or tribal school boards. In FY2010 the funding available for TGSC met only 60 percent of need, the lowest rate to date. Given this reality, schools are required to reduce staff to bare bones levels and to divert funds from educational programs to meet their statutorily mandated administrative requirements. For current contract and grant schools, $70.3 million should be appropriated to fully fund TGSC need, with an additional $2 million to fund the administrative needs of those schools that convert to contract or grant status in FY2012, to avoid diverting funds from existing tribally operated schools. (More detailed justification of this request can be found in the Education section on page 34 of this document.)

**DEPARTMENT OF THE INTERIOR**

**Interior, Environment Appropriations Bill**

**BIA Tribal Priority Allocations (TPA)**

- Provide at least a 10 percent increase over FY2011 for Tribal Priority Allocations.

TPA is one of the most important funding areas for tribal governments. It covers such needs as scholarships and higher education funding, human services, economic development and natural resource management. Since tribes have the flexibility to use TPA funds to meet the unique needs of their individual communities, they are the main resource for tribes to exercise their powers of self-governance.
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## NCAI FY2012 Budget Requests

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# NCAI FY2012 Budget Requests

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Key to Agency Abbreviations (listed in order of appearance in chart): DOJ (Department of Justice), DOI (Department of the Interior), DHS (Department of Homeland Security), HHS (Department of Health and Human Services), ED (Department of Education), USDA (Department of Agriculture), Commerce (Department of Commerce), SBA (Small Business Administration), Treasury (Department of the Treasury), DOD (Department of Defense), CPB (Corporation for Public Broadcasting), EPA (Environmental Protection Agency), HUD (Department of Housing and Urban Development), DOT (Department of Transportation)
Acknowledgements

The National Congress of American Indians would like to thank the following organizations that provided budgetary requests, supporting information, and significant staff time and resources. This document would also not be possible without the support and guidance of tribal leaders who participated in federal agency consultations and who attended NCAI’s annual budget task force meetings.

American Indian Higher Education Consortium
Bureau of Indian Affairs Self-Governance Advisory Committee
Council of Energy Resource Tribes
Indian Health Service Budget Workgroup
IHS Tribal Self-Governance Advisory Committee
Intertribal Agriculture Council
Intertribal Timber Council
Intertribal Transportation Association
National American Indian Housing Council
National Association of Tribal Historic Preservation Officers
National Center for American Indian Enterprise Development
National Council of Urban Indian Health
National Indian Child Welfare Association
National Indian Council on Aging
National Indian Education Association
National Indian Health Board
National Tribal Air Association
National Tribal Environmental Council
Native American Contractors Association
Native CDFI Coalition
Tribal Education Departments National Assembly
Tribal/Interior Budget Council


Ibid.


Indian Health Service budget narrative and recommendations found in this section were adapted from the Indian Health Service Budget Workgroup’s FY2012 Budget Recommendations.


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