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The 114th Congress was sworn in on January 6, 2015. This session of Congress begins with a Republican majority in both the Senate and the House of Representatives for the first time in eight years. In the House, the Leadership remains the same with Congressman Boehner remaining the Speaker and Congresswoman Nancy Pelosi, the Minority Leader. In the Senate, the Majority Leader is Senator McConnell with Senator Reid as Minority Leader.

There have been several changes to key Committees that deal with tribal issues. In the House, the new Chair of the Natural Resources Committee is now Congressman Bishop (R-UT) with Congressman Grijalva (D-CA) as Ranking Member. At the subcommittee level within the Natural Resources Committee, the Insular Affairs Subcommittee has been absorbed into the Indian Affairs Subcommittee which is now called the Subcommittee on Indian, Insular and Alaska Native Affairs. The Chair of this combined subcommittee is Congressman Young (R-AK) with Congressman Ruiz (D-CA) as the Ranking Member. In the Senate, Senator Barrasso (R-WY) is now the Chairman of the Indian Affairs Committee with Senator Tester remaining on the Committee as Vice-Chairman.

This Congress has begun with several issues that put Congress and the President at odds. The Congress has taken quick action on approval of the construction of the Keystone Pipeline. It now remains to be seen whether the President will veto the bill and whether there are enough votes in the House and Senate to override the President’s veto. Another contentious issue is funding for the Department of Homeland Security. The appropriations bill has stalled in Congress over amendments that would gut the President’s key immigration policies, including recent executive actions that remain contentious. The Department of Homeland Security will run out of funding on February 27th if a compromise is not reached.

Because neither chamber has a supermajority, it will still be important for the parties to work together, which is historically how tribal bills are passed. We anticipate that this Congress may be a good environment for tribes to make progress on key issues such as energy, trust modernization, tribal infrastructure including transportation, housing, telecommunications and irrigation, economic development, labor and tax reform. In addition, NCAI will continue to advocate for legislation on important areas such as restoring Indian lands, education, improved healthcare, and public safety.

In the Administration, the White House held the sixth annual White House Tribal Nations Conference in December 2014. At that Conference, the President outlined a strong youth initiative which was followed up by significant investments in tribal programs in the fiscal year 2016 budget. With less than two years remaining for the Obama Administration, it is vital to implement policies and programs that will strengthen tribal self-determination now and into the future.

NCAI continues our collective efforts at every level of the Congressional and Administrative process to ensure that tribes' voices are heard and considered at every stage of the advocacy process. We are honored to be a strong voice for tribal nations in Washington, D.C. and know that together we can continue to have a positive impact on the lives of our tribal members and communities.
RESTORE TRIBAL HOMELANDS – ADDRESSING THE CARCIERI DECISION

Since 1934, the Department of the Interior (DOI) has construed the Indian Reorganization Act (IRA) to authorize the Secretary of the Interior to place land into trust for all federally recognized tribes. Over the following 75 years, DOI restored lands to enable tribal governments to build schools, health clinics, hospitals, housing, and community centers to serve their people. The Secretary has approved trust acquisitions for less than 5 percent of the more than 100 million acres of lands lost through the federal policies of removal, allotment, and assimilation.

In February 2009, the U.S. Supreme Court decided Carcieri v. Salazar, overturning this long-standing interpretation by construing the IRA to limit the Secretary’s authority to place land into trust to only those tribes that were “under federal jurisdiction” as of 1934. From this interpretation, two classes of tribes have been created—tribes “under federal jurisdiction” in 1934 and tribes that were not. This unequal treatment of federally recognized tribes runs counter to congressional intent and modern federal Indian policy. Legislation is needed to prevent irrevocable damage to tribal sovereignty, tribal culture, and the federal trust responsibility.

The Carcieri decision undermines tribal economic development and self-sufficiency, public safety, tribal sovereignty, and self-determination. The IRA is a comprehensive federal law that provides not only the authority of the Secretary of the Interior to take lands into trust for tribes, but also for the establishment of tribal constitutions and tribal business structures. The Carcieri decision has created jurisdictional uncertainty that is hindering economic development opportunities, business financing, contracts, and loans. The decision has further complicated the uncertainties of criminal jurisdiction in Indian Country such that it has worsened the public safety crisis prevailing on many Indian reservations across the country as well as drawing into question the validity of past federal and tribal court convictions. The decision also threatens to block or delay important land acquisitions for schools, housing, health clinics, essential tribal government infrastructure projects, and the protection of sacred sites.

With over 15 federal lawsuits currently pending, the Carcieri decision has already resulted in costly, protracted litigation on a broad range of issues and will likely spawn further litigation across the country. These cases are affecting all tribes, even those that were clearly recognized by the United States prior to 1934. The United States, at taxpayer expense, is a defendant in more than a half dozen of these lawsuits. A legislative fix to Carcieri comes at no cost to taxpayers all while boosting economic development and self-determination in Indian Country.

Legislative Update

Members of Congress should strongly support the enactment of legislation to reaffirm Congress’ intent that the IRA authorized the Secretary of the Interior to take land into trust for all federally recognized Indian tribes. The ability of tribes to have land placed into trust is central to tribal sovereignty, the federal trust responsibility, and the ability of tribes to protect their homelands and culture. Legislation has been introduced in the House of Representatives by Representatives Cole (H.R. 249) and McCollum (H.R. 407). To date, no legislation has been introduced in the Senate to address the Carcieri decision.

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NATURAL RESOURCES

American Indians and Alaska Natives, as first stewards of this land, have nurtured, lived, and thrived off it since time immemorial. Native peoples continue to rely on their natural resources to sustain themselves as key elements of their culture. Through the Constitution and various agreements with tribal nations, the federal government has treaty and trust responsibilities to Indian tribes to protect, manage, and allow access to our natural resources.

Tribes’ cultures, traditions, lifestyles, communities, foods, and economies are all dependent upon many natural resources and they are disappearing faster than they can be restored. These impacts are intensified by effects of climate change on tribal lands. American Indians and Alaska Natives are disproportionately impacted by climate change due to the geographical areas in which they reside and their direct connection to their surrounding environments. Native peoples who rely heavily on the cultural and subsistence practices of their ancestors to survive are particularly hard hit. Specifically, the well-established plight of those in Alaska Native villages is probably the most profound manifestation of the climate crisis and requires focused and high priority attention from the federal government.

Climate change poses threats not only to the health and food supply of Native peoples, but also to their traditional ways of life. Climate change is reducing the natural ecosystems and biodiversity on which Native peoples have come to rely. The traditional time to gather plants is changing, and the migration patterns of animals are being altered. Wildland fires on federal lands are significantly increasing in size, intensity, and cost. In California and the Southwest, many tribes are experiencing prolonged drought which is having an effect on their water resources and rights while some villages in Alaska that are located near rivers or streams now find the water at their front door.

The United States’ responsibility toward tribes goes beyond simply supporting prior agreements, it must allow for full tribal participation during discussions on the management of Native resources at the federal-level and the tribal management of natural resources in traditional and culturally appropriate methods. Tribes, as proven effective managers of their own resources, must be included in federal programs and funding opportunities available to state and local governments.

Legislative Update

Wildfire Disaster Funding Act of 2015 (S. 235 & H.R. 167). Senator Wyden (D-OR) and Representative Simpson (R-ID) introduced companion bills to address many issues with funding wildfire suppression. Appropriated sums are often insufficient to cover the large and unpredictable costs of wildfires, so fire suppression funds must often be “borrowed” from regular federal forest management programs. Repayment is always late and often partial, disrupting and diminishing those programs’ effectiveness. NCAI supports the legislative initiative proposed both in Congress and by the Administration to have federal wildland fire costs that exceed 70 percent of the ten-year average paid from federal disaster assistance accounts. Such authority would allow the large, unpredictable, and often unbudgeted costs of fighting wildland fires to be treated the same as other natural disasters, and would provide more budgetary stability to regular on-going federal forest management programs.

S. 438 - A bill to provide for the repair, replacement, and maintenance of certain Indian irrigation projects.

This bi-partisan legislation, introduced by Senator Barrasso (R-WY) on February 10, 2015, will provide the funding necessary to address deferred maintenance and back logged programs for 16
Indian irrigation programs in the west. The legislation creates a fund at the U.S. Department of Treasury called the “Reclamation Rural Water Construction and Settlement Implementation Fund,” which would be funded in the amount of $150 million annually. The bill was referred to the Senate Committee on Indian Affairs where quick action is expected.

Magnuson-Stevens Fishery Conservation and Management Act Reauthorization. The current authorization of the Magnuson-Stevens Fisheries Conservation Act (MSFCA) expired in September of 2013. In the last session of Congress, there were multiple hearings and proposals on reauthorization of Magnuson-Stevens. With reauthorization expected to be part of the agenda for this session of Congress, it is time for some much needed changes and amendments to incorporate American Indians and Alaska Natives in the decision making processes, as well as a need for improved practices to protect the health of our fish resources.

Despite being charged with upholding fishing treaty rights of Northwest tribes and the right to fish of Alaska tribes, the management of the North Pacific Fishery Management Council fails to consider the needs of American Indian and Alaska Native people. The structure of the council prevents tribes from participating as part of the decision making process and engages in a flawed single-species based management system which does not consider the food web dynamics, fishing gear impacts, and non-target species taken as bycatch which has resulted in the overfishing of a third of the nation’s fish stocks. Without appropriate reform of the MSFCA, natural fish populations and the Alaska Native inhabitants’ well-being along with the treaty-protected rights of Pacific Northwest Indian nations will continue to be at risk.

NCAI is requesting that as Congress considers reauthorization of the MSFCA, that the purpose of the Act be amended to include promotion of Alaska Native subsistence rights and tribal fisheries based on treaty rights, including a mandate to be responsive to the needs of federally recognized tribes, and require that tribes and Native subsistence users be represented on the North Pacific Fishery Management Council. Further, it must utilize ecosystem-based management rather than species specific management and additional methods to better protect fish stocks and health. The management councils as well as all fishery plans must not only include input from tribes, but must also reflect treaty rights and subsistence rights of American Indians and Alaska Natives while limiting states’ ability to interfere with treaty and subsistence rights. Finally, the MSFCA must provide resources for mitigation efforts when needed to protect tribal treaty rights including: increased hatchery production, habitat protection and restoration, development of alternative fisheries when primary fisheries have been reduced, and the development of value added programs to increase the value of treaty fisheries.

Administrative Update

Climate Change. On November 1, 2013, President Obama announced the creation of the White House Task Force on Climate Preparedness and Resilience and appointed two Native representatives to the group: Karen Diver, Chairwoman of the Fond du Lac Band of Lake Superior Chippewa, and Reggie Joule, Mayor of Alaska’s Northwest Arctic Borough. The Task Force released its Report and Recommendations to the President in November 2014 with five overarching principles: (1) require consideration of climate-related risks and vulnerabilities as part of all federal policies, practices, investments, and regulatory and other programs; (2) maximize opportunities to take actions that have dual-benefits of increasing community resilience and reducing greenhouse gas emissions; (3) strengthen coordination and partnerships among federal agencies, and across federal,
state, local, and tribal jurisdictions and economic sectors; (4) provide actionable data and information on climate change impacts and related tools and assistance to support decision-making; and (5) consult and cooperate with Tribes and indigenous communities on all aspects of Federal climate preparedness and resilience efforts, and encourage States and local communities to do the same.

The final Task Force report was supplemented by tribal-specific recommendations offered by Chairwoman Diver and Mayor Joule from the input they received from tribes during their tenure on the Task Force. The goals highlighted the need for tribes to be included as active participants, but explicitly recommended: (1) tribes have more access to federal agencies’ data and information related to climate change; (2) removal of barriers that prohibit tribal access to federal programs; (3) direct access to federal funding; and (4) the establishment of a permanent federal government Climate Adaption Task Force.

NCAI is continuing to work with the Administration and federal agencies on the taskforce recommendations to ensure they are implemented and that tribal governments are involved as full partners in all programs, planning, and engagement on climate adaption efforts. NCAI also continues to support climate change initiatives through resolutions dealing specifically with the effects that climate change has on tribes.

*Tribal Water Rights Working Group.* The NCAI Water Rights Working Group consists of technical experts, such as tribal water resource managers, policy experts and attorneys with past experience in water settlement matters. The group continues to maintain a close working relationship with an ad hoc Indian water rights settlement group, which consists of individuals representing the Native American Rights Fund, the Western Governors Association, and the Western States Water Council.

During the past session of Congress, NCAI joined the ad hoc Indian water rights settlement group for meetings on Capitol Hill to discuss the need for the federal government to ensure funding is available for Indian tribes to quantify their water rights through the Congressional settlement process. Even during the current budget climate, it is important for tribes to tell Congress that the right to water is a fundamental need for Indian tribes, and that as first stewards of this land, tribal rights to water relate back to—at a minimum—the establishment of the reservation, often superseding the water rights of neighboring non-Indian communities. This makes the settlement process even more crucial because water rights left unsettled lead to uncertainty for all, and often costly and time-consuming litigation.

NCAI continues to reach out and help engage its members in discussions on best practices for managing water resources. For instance, we have hosted several webinars and outreach meetings on the importance of quantifying water and the importance of developing sound water management tools within the regulatory jurisdiction of the Indian tribe. NCAI held a webinar on October 21, 2014 on federal perspectives for approving tribal water codes. That webinar can be found on NCAI’s website at [www.ncai.org](http://www.ncai.org).

For additional information, please contact Colby Duren, Staff Attorney at 202.466.7767 or cduren@ncai.org.
**TRUST MODERNIZATION**

Many of the federal statutes and regulations governing the management of trust systems were adopted several decades ago—some over 100 years ago—and have not kept up with the modern trust relationship between tribes and the federal government. While the trust responsibility includes all facets of the relationship, such as funding, health care, housing, and public safety, some of the most glaring examples of outdated statutes involve the management of tribal lands and development of trust resources.

Indian lands and natural resources are a primary source of economic activity for tribal communities, but the antiquated and inefficient federal trust resource management system contributes to the anemic condition of many reservation economies. NCAI urges Congress to support legislative reforms that will eliminate the burdensome federal red tape stifling economic development in Indian Country, provide tribes with more flexibility and greater control over decision making, and prevent the reoccurrence of the trust mismanagement problems of the past. There is a need for greater efficiency in the trust resource management system, better economic returns on trust resources, and, above all, an increased tribal voice in how the trust is administered. For example, nearly every trust transaction requires an appraisal from the Office of the Special Trustee, and this is the most significant bottleneck in the trust system. Congress must eliminate unnecessary appraisals and permit tribes to rely on independent certified appraisals. Tribes have been making progress on trust reform and, to keep that momentum going, NCAI is working with our tribal organization partners on improving trust land management systems and to modernizing the trust to better serve today’s Indian Country.

**Legislative Update**

*S. 383 & H.R. 812 – To provide for Indian trust asset management reform, and for other purposes*. Senator Crapo (R-ID) and Representative Simpson (R-ID) both introduced their mirror pieces of legislation that would reaffirm the federal government’s fiduciary responsibilities to Indians. In particular, the bills state that: (1) the most exacting common law fiduciary standards governing private trustees also govern the federal government when it manages Indian Trust Assets, and (2) those standards are not limited to the express terms of statutes and regulations. The bills also create the Indian Trust Asset Management Demonstration Project, which would require the Secretary to establish an eight-year Indian trust asset management demonstration project that allows Indian tribes to propose, for the Secretary’s approval, Indian trust asset management plans. The legislation authorizes participating Indian tribes that contract or compact trust management functions or activities under the Indian Self-Determination and Education Assistance Act to develop and carry out trust asset management systems, practices, and procedures that differ from the Secretary’s. S. 383 has been referred to the Senate Committee on Indian Affairs and H.R. 812 was referred to the House Committee on Natural Resources.

**Administrative Update**

*Cobell Settlement Payments*. The *Cobell v. Salazar* settlement was approved by Congress in the Claims Resolution Act of 2010 and became final in November 2012. The settlement included $1.5 billion to pay individual Indian trust beneficiaries for past accounting issues and resolve historical asset mismanagement claims and $1.9 billion to be made available to the Secretary of the Interior to buy interests in trust lands that are “fractionated,” pursuant to the Land Buy-Back program of the Indian Land Consolidation Act.
The payment of the $1.5 billion--minus attorneys' fees and expenses incurred in carrying out the settlement—to individuals is being carried out in two stages: first to the Historic Accounting Class (HAC) and then to the Trust Administration Class (TAC). Beginning in December of 2012, checks for the HAC in the amount of $1,000 were distributed by the Garden City Group, the Claims Administrator for the Cobell Settlement, to claimants across the country. Eligible claimants were persons who were determined, according to the records of the Department of Interior, to either be alive or have an estate in probate on September 30, 2009, and to have had an open and active Individual Indian Money (IIM) account during any period between October 25, 1994, and September 30, 2009.

As of the end of September 2013, payments had been made to more than 90 percent of those eligible, totaling more than $236,940,000.00, with 33,400 remaining estate cases and an estimated 11,000 remaining on the Whereabouts Unknown list for the HAC. Special efforts are being conducted to continue to settle the estates and locate individuals whose whereabouts are unknown.

Eligibility for the Trust Administration Class (TAC) was finalized as determination letters were sent on May 1, 2013, to more than 375,000 individuals. On September 11, 2014, the U.S. District Court for the District of Columbia approved the distribution of payments to the TAC. The checks were mailed out to the TAC on September 15, 2014. As of October 24, 2015 a Special Master has reviewed and made determinations in all claimant appeals. For more information and updates on the progress of the settlement, go to www.indiantrust.com.

**Land Buy-Back Program.** The Cobell Settlement provides for a $1.9 billion Trust Land Consolidation Fund and charges the Department of the Interior with the responsibility to expend the Fund within a 10-year period to acquire fractional interests in trust or restricted fee land that individuals are willing to sell. Those interests will be transferred in trust to the tribal government with jurisdiction over the land. The Land Buy-Back Program has been established by the Department of Interior to implement this aspect of the Settlement. The overall goal of the Land Buy-Back Program is to reduce the number of those fractional interests through voluntary land purchases, which will produce more consolidated tribal trust land bases.

The Department has prepared an Initial Implementation Plan (updated in November 2013) for the Land Buy-Back Program based on preliminary planning and tribal consultation. The Department has stated that it intends to continually update its plans to reflect tribal feedback, lessons learned, and best practices. Tribal consultation sessions on the Plan and Land Buy-Back Program were held in early 2013 in Minneapolis, Rapid City, and Seattle. Key issues at the consultations included the urgency to get the program started, cooperative agreements with tribal governments for participation in the program, the status of permanent improvements, concerns about the ability to conduct appraisals in a timely way, and land title processing. NCAI has hosted three webinars on the program in the past two years.

The plan’s initial focus was on 40 highly fractionated reservations and active outreach to tribes from those areas to enter into the Buy-Back Program’s cooperative agreement application process. This open solicitation period began on November 15, 2013 and ended on March 14, 2014. While a small number of tribes have entered into cooperative agreements to carry out certain functions of the program, several tribes have expressed concerns with the limited roles that tribes are being offered under the program, the slow rate of program implementation, and the fact that the $1.9 billion fund
is not earning interest—a potential loss of millions of dollars that would otherwise be available to purchase fractionated interests. So far, the Buy-Back Program has purchased land for these tribes: Oglala Sioux Tribe, Rosebud Sioux Tribe, Makah Tribe, Fort Belknap Indian Community, Gila River Indian Community, Northern Cheyenne Tribe, Confederated Salish and Kootenai Tribes of the Flathead Nation, Confederated Tribes of the Umatilla Indian Reservation, Quapaw Tribe, Crow Nation, Sisseton Wahpeton Oyate, Squaxin Island Tribe, and Coeur d’Alene Tribe.

It is anticipated that oversight hearings will be held in this Congress to ensure the Cobell settlement and land buy-back program are being implemented in accordance with the approved settlement and in a way that can be accomplished within the timeframes set out in the settlement.

**HEARTH Act Implementation.** The Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act became law on July 31, 2012. The Act authorizes surface leasing of tribal lands without approval from the Secretary of the Interior. Instead, tribal leases can be approved by the tribe under tribal leasing regulations. The new law will enable tribes to move more quickly on leasing and economic development, while maintaining the Secretary’s trust responsibility to oversee trust lands.

Tribal leasing codes must be consistent with the BIA’s recently updated leasing regulations, 25 C.F.R. 162. The BIA has also published a National Policy Memorandum containing a list of criteria that should be considered. Key requirements include leasing code development and an environmental review process. The BIA has already approved several tribal leasing codes with more under review.

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**ENERGY**

Tribal energy resources are vast, largely untapped, and critical to America’s efforts to achieve energy security and independence, reduce greenhouse gases, and promote economic development. Energy development is integral to tribal efforts to generate jobs and to improve tribal members’ standard of living. The Department of the Interior estimates that undeveloped traditional energy reserves on Indian lands could generate up to $1 trillion for tribes and surrounding communities. Further, the Department of Energy estimates that tribal wind and solar energy potential can provide 32 percent and 2 times, respectively, the total amount of electricity the United States currently generates per year. However, developing energy resources on tribal lands, not unlike other trust resources, continues to be a challenge as tribes face barriers to energy development which do not exist outside of tribal lands.

Cumbersome bureaucratic processes, disincentives to tribal financing, Applications for Permit to Drill fees, inequitable exclusion from federal programs, and the requirement that tribes and tribal businesses obtain Interior approval for almost every step of energy development on tribal lands—including the approval of business agreements, leases, rights of way, and appraisals—continue to delay energy development in Indian Country. Since the last major update to Indian energy policy was 10 years ago, NCAI urges Congress and the Administration to work with tribes to remove these unnecessary hindrances that persist in energy development, bolster tribal self-determination,
and help create careers and capital in Indian Country by taking swift action in passing the Indian Tribal Energy Development and Self-Determination Act of 2015.

Legislative Update

S. 209 – Indian Tribal Energy Development and Self-Determination Act of 2015. On January 21, 2015, Senator Barrasso (R-WY) reintroduced his longstanding legislation to provide tribes with greater control and flexibility to develop their traditional and renewable energy resources and streamline many of the burdensome processes tribes presently face. The current bill is identical to the version passed out of the Senate Committee on Indian Affairs in the 113th Congress, with one notable exception explained below. The bill includes additional consultation requirements for the Department of the Interior; improves the Tribal Energy Resource Agreements process in the Energy Policy Act of 2005 by recognizing tribal self-determination over energy resources; creates a process for approving Tribal Energy Development Organizations; expands direct access to the Department of Energy’s Weatherization Program; supports American Indian and Alaska Native biomass demonstration projects; and amends the appraisal and right-of-way approval processes. The Committee marked-up and favorably passed this legislation out of Committee on February 4, 2015. One notable provision missing from S. 209 that was included in the Committee passed version of the 113th Congress is the Indian Energy Efficiency Program. This was offered as an amendment during in 113th Congress, but was not done so at mark-up in the 114th.

H.R. 538 – The Native American Energy Act of 2015. In the House of Representatives, Representative Young (R-AK) reintroduced his Native American energy legislation. The bill is substantially similar to the version introduced last Congress as it would remove regulatory hurdles to tribal energy development, reform the appraisal process, restructure the environmental review process, support tribal biomass demonstration projects, and consider all tribal resource management plans as sustainable management practices. It does not include the language which would have prohibited BLM from collecting fees on oil and gas leases on Indian lands that was included in last year’s bill.

As the Congressional leadership in the 114th Congress begins to develop its legislative focuses and records, it is clear that energy policy will be at the forefront of the agenda. NCAI is continuing to work with the Senate Committee on Indian Affairs, Senate Committee on Energy and Natural Resources, and the House Committee on Natural Resources to develop and pass strong Indian energy legislation that will support tribal self-determination and economic development.

For additional information, please contact Colby Duren, Staff Attorney at 202.466.7767 or cduren@ncai.org

Agriculture is a major economic, employment, and nutrition sector in Indian Country. In 2012, there were at least 56,092 American Indian-operated farms and ranches on more than 57 million acres of land. These farms and ranches sold $3.3 billion of agricultural products, including more than $1.4 billion of crops and $1.8 billion of livestock and poultry. Additionally, the 2007 Census of Agriculture Fact Sheet notes that, “American Indian farm operators are more likely than their counterparts nationwide to report farming as their primary occupation . . . to derive a larger portion of their overall income from farming . . . [and] to own all of the land that they operate.” As a result of the huge agricultural footprint across Indian Country and the fact that more than 35 percent of American Indian and Alaska Native peoples live in rural communities, tribal governments and
farmers look to active partnerships throughout the U.S. Department of Agriculture to sustain and advance common interests across the broad array of services that this federal agency provides to tribal governments.

With 24 percent of American Indian and Alaska Native households receiving Supplemental Nutrition Assistance Program (SNAP) benefits, 276 tribes administering the Food Distribution Program on Indian Reservations (FDPIR), 68 percent of American Indian and Alaska Native children qualifying for free and reduced price lunches, and American Indians and Alaska Natives making up more than 12 percent of the participants in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) the importance of food assistance in Indian Country cannot be overstated. Any cuts to SNAP, FDPIR, WIC, or school lunch programs directly diminish the food, and in some cases the only meals, available to Native children, pregnant women, elders, and veterans. No one, especially our tribal citizens most in need, should ever have to go without food. Additionally, food assistance programs like FDPIR must be provided the means and support to purchase traditional, locally-grown food in their food packages. Traditional and locally-grown foods from Native American farmers, ranchers, and producers encourages healthy living, cultural sustainability, and a return to traditional practices all while supporting economic development. Below is a look at the agriculture and nutrition policies that will be a focal point in the last two years of the Obama Administration and the 114th Congress.

**Legislative Update**

**Reauthorization of the Healthy Hunger-Free Kids Act of 2010 (Child Nutrition Reauthorization).** The Healthy Hunger-Free Kids Act of 2010 is a 5 year bill that governs several food programs that impact Native children and parents: the National School Lunch and School Breakfast Programs; the Child and Adult Care Food Program; the Summer Food Service Program; the Afterschool Snack and Meal Program; the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); the WIC Farmers Market Nutrition Program; the Fresh Fruit and Vegetable Program; and the Special Milk Program. As was seen in the 2014 Farm Bill debate, nutrition standards, costs, and program eligibility will continue to be at the forefront of the Child Nutrition Reauthorization. With the law expiring on September 30, 2015, the Senate Committee on Agriculture and House Committee on Education and the Workforce, the two Committees with jurisdiction, will begin holding hearings shortly to discuss changes to the law. NCAI is working with many major nutrition policy groups and our tribal organization partners to make sure Indian Country’s priorities are included in the Reauthorization.

**SNAP and Nutrition Assistance Programs.** While the 2014 Farm Bill, a 5 year bill that went into effect in February 2014, is a few years away from reauthorization, both the Senate and House Agriculture Committee leadership have stated they will begin to hold oversight hearings in March to reexamine nutrition assistance programs contained in the Farm Bill, such as SNAP. While House Agriculture Committee Chairman Conway (R-TX) says that no legislative action on SNAP is planned for the 114th Congress, NCAI will continue to monitor activity and advocate for strong nutrition policies for Indian Country.

**Administrative Update**

**2014 Farm Bill Implementation.** On February 7, 2014, President Obama signed H.R. 2642 - the Federal Agriculture Reform and Risk Management Act of 2013 into law ending over two years of work on the Farm Bill reauthorization. The final piece of legislation represented a bipartisan agreement on a
The majority of agriculture and nutrition policies and made a number of changes to existing programs while creating many new opportunities for Indian Country. The most noteworthy change is an $8.6 billion cut to the Supplemental Nutrition Assistance Program (SNAP). This represents a compromise between the $4 billion in cuts the Senate bill proposed and the nearly $40 billion from the House bill. The savings comes from increasing the threshold amount of Low-Income Housing Energy Assistance Program (LIHEAP) assistance necessary to qualify for increased SNAP benefits—the so called "Heat and Eat" provision—from $1 to $20.

The new law includes several Indian Country specific provisions, including tribal eligibility in Soil and Water Conservation Act programs; a feasibility study on tribal administration of federal food assistance programs; a Food Distribution Program on Indian Reservations (FDPIR) Traditional Foods Demonstration Project (FDPIR)—which creates a new demonstration project with technical assistance and tribal consultation to allow the inclusion of traditional and locally grown foods from Native farmers, ranchers, and producers in FDPIR; the service of donated traditional foods in federal food service programs such as residential child care facilities, child nutrition programs, hospitals, clinics, long-term care facilities, and senior meal programs.

The focus of the Farm Bill is now on implementation of the new programs at USDA. NCAI has already begun working with the Office of Tribal Relations on many of the new programs to ensure that Indian Country is well represented during the rulemaking phase and that tribal consultation, where applicable, is performed so the regulations follow Congress’s intent and benefit tribes and Native farmers, ranchers, and producers.

NCAI submitted comments in December 2014 regarding the feasibility study for tribes to administer their own federal food assistance programs to ensure that study is conducted in a fair manner and follows the intent of the law: to determine whether legislative action or administrative action is necessary to allow tribes to take over federal food programs, particularly SNAP. So far, the outreach and questions proposed by the USDA’s Food and Nutrition Service are troubling at best. They seek to review whether tribes have the current capacity to administer these programs. Instead, NCAI is advocating for the study to look at the federal framework necessary for tribes to take over the program administration with the proper funding and support from the federal government since tribes are in the best position to determine how these programs can best serve their citizens.

**Keepseagle Settlement.** The Keepseagle litigation with the U.S. Department of Agriculture for discrimination in the USDA Farm Loan Program was settled on December 27, 2011 for $760 million. Payments were made in August and September 2012 to 3,600 individuals with claimants receiving from $50,000 to $250,000 depending on their type of claim. The settlement also includes payment of the taxes on settlement proceeds and payment/reduction of outstanding debt.

The final action is the disposition of the remaining $380 million from the original $760 million settlement after all payments to successful claimants. To assure that the remaining funds would continue to benefit American Indian agriculture into the future, Class Counsel—after their request for another round of payments to successful claimants was not accepted—submitted proposals to the U.S. Departments of Agriculture and Department of Justice to establish an independent foundation with the $380 million that would serve Native American farmers and ranchers. In September 2013, a group of over 300 Keepseagle claimants from the Great Plains region filed a motion to intervene in the negotiations but have not been involved so far. In July 2014, the Keepseagle...
Class Counsel announced a series of meetings between July 30th and August 26th to discuss the disposition of the remaining $380 million dollars.

At the conclusion of the in-person meetings, Class Counsel filed with the court its proposal outlining in detail the creation of a *cy pres* fund called the Native American Agriculture Fund (Fund) for the remaining $380 million, be governed by a proposed a Board of Directors, and guidelines for what entities are eligible to receive funding from the new Fund. The Fund would be a 501(c)3 non-profit entity and would be able to distribute funds to: 501(c)3 non-profits; 170(b)(1)(A)(ii) educational organization; Community Development Financial Institutions (CDFI), including Certified Native CDFIs and Emerging Native CDFIs if they are 501(c)3 entities; and the instrumentality of a state or federally recognized tribe, including a non-profit organization chartered under the tribal law of a state or federally recognized tribe, that furnishes assistance designed to further Native American farming or ranching activities.

On December 2, 2014, the court held a status conference and Ms. Keepseagle was allowed to voice her concerns about the creation of a trust. The Judge saw this as a brief for relief and told her she could retain counsel and submit a motion making the legal argument for her position to reopen the settlement for an additional round of payments. All decisions on the creation of the Fund are on hold while the court addresses this matter.

*For additional information, please contact Colby Duren, Staff Attorney at 202.466.7767 or cduren@ncai.org*
The last national tax reform occurred just under thirty years ago with the passage of the Tax Reform Act of 1986. Under the current Tax Code, tribal governments are left without many of the benefits, incentives, and protections provided by the Code to state and local governments. This inequity significantly handicaps tribal sovereign authority to provide government revenue for tribal programs independent of federal appropriations and encourage economic growth on tribal lands.

Last year, the 113th Congress enacted the Tribal General Welfare Exclusion Act of 2014 in a demonstration of collaboration between Native nations and Congress. The Act responded to the taxation of certain governmental services provided to or on behalf of the tribe or its members. With the passage of the Act, Indian general welfare services provided by tribal government programs are no longer subject to taxation as gross income.

The passage of the Tribal General Welfare Exclusion Act is just the beginning of the larger effort to overhaul tribal taxation infrastructure and bolster tribal economies. Reliable funding sources have been few and far between for every tribal government service for decades. Congress must continue to actively engage with Native nations to achieve tribal tax reform in a comprehensive manner.

Legislative Update

Make Tax “Extender” Incentives Permanent -- Support legislation to incentivize business development on tribal lands. NCAI will continue to urge Congress to consider the urgent and continuing need for economic development on Indian reservations in the context of the Indian Employment Tax Credit (IRC Section 45A), the Accelerated Depreciation Provision for on-reservation business infrastructure (IRC Section 168(j)), and the Indian Coal Production Tax Credit (IRS Section 45) which expired on December 31, 2014, and should be reenacted as soon as possible and on a permanent basis.

The Employment Credit provides private businesses with an incentive for employing Indian tribal members in reservation-based business operations. The Accelerated Depreciation Provision provides businesses with the opportunity to take accelerated depreciation deductions on business property located on Indian reservations. NCAI will continue to recommend that Congress make both tax incentives permanent so that employers can rely on the incentives when planning to locate a facility in Indian Country. The lack of certainty in the future of these tax provisions undermines their ability to attract larger, long-term investments.

Achieve tax parity for Tribal Governments. Members of Congress and Indian tribes have identified a significant number of provisions where tribes are unable to use the Tax Code in the same manner as state and local governments. NCAI will continue to advocate on behalf of tribes to achieve parity in these areas:

- Tribal government tax-exempt bonds. Currently, tribes may only use tax-exempt bonds for “essential government functions.” The IRS has interpreted this in a way to exclude economic development as a governmental function, while state and local governments frequently are using tax exempt financing for revitalization projects. This unnecessarily prevents tribes from securing the funding needed to revitalize their communities.
• **Tribal government pension plans.** Tribal governments currently must provide both government and private ERISA pension plans to their employees. This largely depends on whether the employee works for the tribal government or for a tribal enterprise. This is both costly and cumbersome. Tribal governments must be able to operate a single, comprehensive, government pension program for all of their employees.

• **Tribal foundations and charities.** Tribally-created foundations and charities do not enjoy the same tax-exempt status that state-created foundations and charities enjoy. This creates an uncertain atmosphere for potential benefactors seeking to maintain their tax-exempt status. In order for tribal foundations and charities to thrive, it is necessary for benefactors to feel unencumbered to make contributions without potential tax penalties.

• **Tribal child support enforcement agencies.** Tribal child support enforcement agencies need authority to access parent locator services, which are currently only available to state and local governments but not tribes. Also, the tax code should be amended to allow tribal child support enforcement agencies to enforce orders for support through the authority to withhold past due child support payment from the federal income tax returns of parents with past due obligations.

• **Tribal access to Clean Renewable Energy Bonds (CREBs).** Tribes and entities wholly owned or controlled by tribes, to utilize CREBs for energy development projects. Legislation should also create a set aside for tribal projects under the CREBs provision.

• **Indian Adoption Tax Credit.** Adoption is widespread throughout Indian Country. Tribal courts need the ability to make a determination of special needs in order to grant tax credits to adoptive parents on par with state courts.

• **Tax credits granted to doctors employed by Indian Health Service facilities.** Tax credits are available to doctors employed in other areas of the public sector, but are unavailable to those employed by the Indian Health Service. This would create an incentive for practitioners to bring their skills to Indian Country, where they are greatly needed.

• **Enact a Technical Amendment to Remove the “Kiddie Tax” Penalty from Transfers of Tribal Funds to Children and College Students.**

Include American Indian/Alaska Native tribal governments in any forthcoming tax reform bill. Any forthcoming tax reform will likely create a Tax Code which will govern the United States, its territories, and Indian tribal governments for decades to come. NCAI will continue to work with Congress to ensure further consultation with tribes to develop an initiative that will promote tribal government tax authority and promote the ability of tribal governments to sustain programs and services in a more self-sufficient manner.

Include Tribal Governments in the Marketplace Fairness Act. NCAI will continue to advocate for the inclusion of tribal governments in any legislation that regulates the collection of sales taxes or implements the State Streamlined Sales and Use Tax Agreement. The Senate included tribes within last year’s version of S. 743, and NCAI is optimistic the legislation will be considered again this year.

For additional information, please contact John Dossett or Christina Snider at 202.466.7767 or john_dossett@ncai.org or csnider@ncai.org.
**Native American Workforce Development**

For generations, Native peoples have faced harsh economic conditions that are more pronounced than those generated by the Great Recession. Today, while unemployment rates across the country hover around 6 percent, tribal governments and businesses wrestle with unemployment rates that have well-exceeded ten percent and beyond for decades. The lack of employment opportunities in Native communities has had a wide-ranging impact, affecting all aspects of life. While tribal governments have successfully supported job creation both in government and the private sector, ensuring that job growth keeps pace with the growing Native youth population is an ongoing challenge. Considering that Indian Country has one of the youngest populations in the nation, with about 32 percent of Native people being under the age of 18 compared to 24% of the total US population, workforce development opportunities are of critical importance.

**Reauthorization of the Workforce Investment Act of 1998.** The *Workforce Investment Act* (WIA) of 1998 includes the Native American Program which supports unemployed, under-employed, and under-skilled American Indians, Alaska Natives, and Native Hawaiians, through a network of over 175 grantees. The *Workforce Investment Act* has been in need of reauthorization since 2003. Finally in July 2014, the House and Senate passed reauthorization of the WIA through the Workforce Innovation and Opportunity Act (WIOA) and the bill was signed into law by the President ending an 11-year absence of reauthorization. The reauthorization is the result of bicameral and bipartisan negotiations intended to modernize and improve existing federal workforce development programs.

The Native American Program under WIOA contained the following revisions:
- Primary Performance Indicators were placed on all programs, including Native American Programs;
- Native American program funding will increase incrementally each year through Fiscal Year 2020 up to $54,137,000;
- Alaska Native descendants are defined as eligible for services provided;
- Every 4 years the Secretary of Labor will make grants or enter in contracts or cooperative agreements with tribal grantees, instead of every 2 years; and
- Entrepreneurial skills are included in the purpose of the program.

It is imperative to ensure tribal engagement throughout the implementation of the WIOA and equally important that all agencies implement programs that provide opportunities for Native youth. These Native youth represent the workforce of tomorrow, so NCAI continues to focus on ways that more programs can be created and institutionalized across agencies to provide more opportunities for Native youth.

**Administrative Update**

*Implementation of the Workforce Innovation and Opportunity Act.* Since September 2014, the Administration through Department of Labor’s Division of Indian & Native American Programs (DINAP) has organized various activities to carry out the implementation of WIOA including webinars, listening sessions, town halls in addition to drafting regulations.

As a requirement of the WIOA, the Departments of Labor and Education must to publish a set of regulations for implementation. While the Departments continue to work toward completion of this important and complex proposal, the publication of the proposed regulations is currently anticipated to occur in Spring of 2015, rather than January 18, 2015, as stipulated in the WIOA.
In Spring 2015 both Departments will concurrently publish five Notices of Proposed Rulemaking (NPRMs) to implement WIOA—all of which will be published in the Federal Register and posted on www.regulations.gov, where public comments can be submitted following publication. The five rules will consist of:

- A joint NPRM involving jointly-administered activities including unified and combined state plans, performance, and aspects of the one-stop system; and
- Implementation of the remaining provisions of Title I and Title III that are administered by the Department of Labor; and
- Implementing Title II Adult Education and Literacy programs through the Department of Education; and
- Two rules implementing the Title IV Amendments to the Rehabilitation Act of 1973 of WIOA.

The Departments of Labor and Education will analyze these public comments, and anticipate issuing Final Rules implementing WIOA in early 2016.

NCAI has been present at recent DOL Tribal Consultation sessions in addition to actively being engaged in Native American Employment and Training Council meetings and will continue to monitor advances in the draft regulations process.

The Department of Labor will conduct a two-hour Tribal Consultation Session during NCAI’s Executive Council Winter Session on Thursday, February 26. Moving forward, NCAI will continue to encourage dialogue between tribes and the Department of Labor to make sure new initiatives and opportunities are inclusive of tribal programs.

For additional information, please contact Mari Hulbutta, Legislative Fellow, at 202.466.7767 or mbulbutta@ncai.org.

**Tribal Temporary Assistance for Needy Families**

The Temporary Assistance for Needy Families (TANF) is a federal block grant program designed to help needy families achieve self-sufficiency. TANF was created as part of welfare reform in 1996 under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). Families with children receive cash assistance for their compliance with guidelines including work participation, job training, and education. Four primary purposes of the TANF program are to provide assistance to needy families so that children of those families may be cared for inside the home; to reduce dependency by promoting job preparation, work, and marriage; to prevent and reduce the incidence of out-of-wedlock pregnancies; and to encourage the formation and maintenance of two-parent families.

As of January 1, 2015, there are 70 approved Tribal TANF programs that serve 284 federally recognized Tribes and Alaska Native Villages. TANF gives federally recognized Indian tribes flexibility in the design of welfare programs that promote work, responsibility, and strengthening of families. Similar to states, tribes receive block grants to design and operate programs that accomplish one of the four purposes of the TANF program.
Under section 412 of the Social Security Act, federally recognized Indian tribes can apply for funding to administer and operate their own TANF programs—in which case the tribe will be required to submit a three-year Tribal TANF plan to the Secretary of the Department of Health and Human Services (HHS) through the Administration for Children and Families (ACF) for review and approval. If approved, Tribal TANF programs will receive a portion of the state TANF block grant from the state where the tribe is located.

In partnership with tribal leaders and program representatives, NCAI established a Tribal TANF Task Force to develop national tribal priorities for TANF reauthorization. NCAI and the Task Force continue to advocate for further reauthorization of TANF and to advance national tribal TANF priorities. The NCAI Tribal TANF Task Force will convene on Monday, February 23, 2015 during NCAI’s Executive Council Winter Session in Washington, DC.

**Legislative Update**

*Reauthorization of TANF.* TANF was originally scheduled for reauthorization in 2010, but Congress has instead issued several extensions to maintain funding. On September 19, 2014 Congress passed H.J.Res.124, the Continuing Appropriations Resolution that extended funding for operations of all federal agencies, programs and services until December 11, 2014. The enacted funding level for Tribal TANF grants through the Administration for Children and Families for FY2015 is $183 million and remains the same in the President’s FY2016 budget request.

To date, no further TANF reauthorization legislation has been introduced in either chamber. NCAI urges this Congress to reauthorize TANF.

**Administrative Update**

The Administration, through the Department of Health and Human Services, will send representatives from the Administration on Children and Families to provide an update on tribal programs at the Tribal TANF Task Force meeting during NCAI’s Executive Council Winter Session.

For additional information, please contact Mari Hulbutta, Legislative Fellow, at 202.466.7767 or mhulbutta@ncai.org.

**Tribal Labor Sovereignty Act**

Indian tribes are sovereign governments, recognized in the U.S. Constitution. The National Labor Relations Act regulates labor relations between employees and private employers. The NLRA does not apply to governments. It is not applicable to the federal government, state governments, county governments, or city governments. Congress recognizes that it is most appropriate for each government to determine their own governmental labor policies. Tribal governments have enacted tribal laws and codes that protect tribal employees and govern the relationship with the tribe as employer. Some tribes have reached labor agreements with unions.

However, there is confusion about the NLRA’s application to tribal governments. From 1935 until 2000 tribal governments were treated as any other government. Recently, however, the National Labor Relations Board and some courts have made conflicting decisions. This has caused great confusion.
From the 1960s’ to 2000, NLRB took the position that Indian tribes should be treated as governments under the NLRA. In 2000, the NLRB challenged the right of the Pueblo of San Juan to enact a tribal right to work ordinance at a tribal saw mill that permitted tribal employees to decide whether to join the union. The Federal Court of Appeals for the 10th Circuit decided that under the NLRA, the Pueblo retained power to enact a right to work ordinance that mandated an open shop, giving tribal employees a right to choose whether to join the union. *NLRB v. Pueblo of San Juan*, 276 F.3d 1186 (10th Cir. 2000).

In 2004, the NLRB heard a complaint from the Hotel Employees and Restaurant Employees Union (“HERE”) that San Manuel Bingo had provided preferred access to its employees to the Communication Workers of America Union (CWA) over HERE. NLRB reversed its prior rulings and held that the NLRA applied to Indian gaming employees because it found that Indian gaming is a quasi-commercial activity. The Federal Court of Appeals for the District of Columbia affirmed the NLRB decision in 2004, *San Manuel Bingo v. NLRB*, 475 F.3d 1306 (D.C. Cir. 2004). In a companion decision Yukon Kuskokwim Health Corp., the NLRB ruled that when providing healthcare, tribal governments are excluded from the NLRA.

Tribal governments, like states, need to protect the basic functions of tribal government and have labor policies that are tailored to the economic and social conditions existing on their lands. No government should be subjected to crippling labor strikes, which the NLRB proposes to apply to tribal governments uniquely.

**Legislative Update**

*Tribal Labor Sovereignty Act of 2015, S. 248 & H.R. 511.* The Tribal Labor Sovereignty Act is a simple amendment to the NLRA to include tribal governments in the same exempt category as all other governments. It is sponsored by Senator Moran (R-KS) in the Senate and Congressman Rokita (R-IN) in the House, and the list of co-sponsors is growing. In the exercise of tribal sovereign authority, recognized by treaties and federal law, the NLRA should not be applied to tribal governments. NCAI urges tribes to ask Members of Congress to co-sponsor and support the Tribal Labor Sovereignty Act of 2015.

*For more information, please contact General Counsel, John Dossett at john_dossett@ncai.org*
VIOLENCE AGAINST WOMEN ACT IMPLEMENTATION

The Violence Against Women Reauthorization Act (VAWA) of 2013 included historic provisions that reaffirm tribal criminal jurisdiction over non-Indians in certain domestic violence cases. This provision takes effect nationwide on March 7, 2015. On that date, any Indian tribe who meets the statutory requirements will be able to prosecute non-Indians who abuse Indian women on tribal lands for the first time since the Oliphant v. Suquamish decision. Importantly, there are a number of due process requirements that must first be met. NCAI has developed a website to assist tribes as they implement the new law: http://www.ncai.org/tribal-vawa.

In the two years since VAWA 2013 was enacted, a group of 41 tribes have been participating in the Inter-Tribal Technical Assistance Working Group (ITWG) established by DOJ, which is a collaboration of tribes sharing information and advice on how to best implement VAWA, combat domestic violence, recognize victims’ rights and safety needs, and safeguard defendants’ rights.

Three of the ITWG tribes have also been participating in a DOJ Pilot Project that allowed them to begin exercising jurisdiction over non-Indians last year. The tribes participating in the pilot project are the Tulalip Tribes, the Pascua Yaqui Tribe, and the Confederated Tribes of the Umatilla Reservation. All three of these tribes have made multiple arrests of non-Indians for domestic violence crimes against Indian women. All three of the tribes report that virtually all of the cases they have seen involve children as witnesses or victims and that the offenders frequently have a history of frequent prior police contacts. Materials from the three pilot tribes are available on NCAI’s website and offer useful examples of how individual tribes have modified tribal code language and constructed jury pools for VAWA cases.

All tribes seeking to implement special domestic violence criminal jurisdiction (SDVCJ) are also encouraged to join the Intertribal Technical-Assistance Working Group (ITWG). Please contact tribal-vawa@ncai.org for more information or with any questions.

Legislative Update

The ITWG has identified a number of areas where additional Congressional action would improve implementation of the VAWA jurisdiction provision. Most notably, tribal prosecutors for the three pilot tribes have expressed frustration that their jurisdiction is limited to domestic or dating violence crimes, and, as a result, they are not able to charge defendants for crimes related to abuse or endangerment of a child or for some property crimes that might have been a part of the incident. Tribes considering implementation also continue to raise concerns about the costs associated with implementation, and Congress has not appropriated any money for these purposes.

Administrative Update

The tribes participating in the ITWG have also identified a number of issues related to VAWA implementation that require Administrative action. Tribes considering implementation have stressed that full and effective access to the National Crime Information Center (NCIC) databases is critical for implementation, for example. They have also asked for the BIA to clarify its policies related to the arrest and detention of non-Indians.

For additional information, please contact John Dossett or Virginia Davis at 202.466.7767 or john_dossett@ncai.org or vrdavis@ncai.org.
VICTIMS OF CRIME ACT FUNDING

American Indian and Alaska Natives experience the highest crime victimization rates in the country.

- American Indians and Alaska Natives are 2.5 times more likely to experience violent crime than other Americans.
- Approximately 34% of American Indian and Alaska Native women are raped and 61% are assaulted in their lifetime.
- Due to exposure to violence, Native children experience rates of post-traumatic stress disorder at the same levels as Iraq and Afghanistan war veterans.

Despite these devastating rates of victimization in tribal communities, Indian tribes have largely been left out of the Crime Victims Fund (CVF), which is the federal government’s principal means of providing resources to crime victims.

The CVF was established by the Victims of Crime Act in 1984. Congress created the CVF based on the idea that money which the government collects from criminals should be used to help those victimized by crime. Fines paid by convicted federal criminal offenders finance the Fund, not taxpayer dollars. Despite significant increases in collections, Congress has imposed a cap on how much is available from the CVF for crime victim services and compensation for the past 15 years. In recent years, distributions from the CVF have been about $700 million. Collections, however, reached as high as $2.8 billion in 2013, leaving a balance in the fund of about $13 billion. There has been significant pressure on Congress to make this money available for crime victims, and Congress significantly increased the distributions for FY 2015 to $2.3 billion.

Unlike state and territorial governments, who receive an annual formula distribution from the CVF, Indian tribes are only able to access CVF funds in one of two ways: 1) via pass-through grants from the states, or 2) by applying for a very limited number of short-term competitive, discretionary grants from the Department of Justice. In practice, pass-through funding has proven wholly unsuccessful in distributing funds to tribal victim service providers. The vast majority of tribal victim service programs report that they are not able to access these funds at all. DOJ’s competitive funding process is also problematic. All federally-recognized tribes compete with each other for a very small amount of funding. Because grants are limited to a three-year duration, this process also greatly hinders development of tribal victim service programs. Often when a grant ends, tribal programs must completely shut down.

Last year, NCAI adopted Resolution ANC-14-048 urging Congress to create an “above-the-cap” reserve in the Victims of Crime Act for tribal governments, or alternatively, to establish a 10% allocation from the CVF for tribal governments. Recognizing the disproportionate need for victim services in tribal communities, the Office for Victims of Crime’s Vision 21 report also called for increasing resources to tribal communities in order to “ensure that victims in Indian Country are no longer a footnote to this country’s response to crime victims.” The Attorney General’s Task Force on American Indian and Alaska Native Children Exposed to Violence similarly called for a 10% tribal allocation from the CVF in its 2014 report.

Legislative Update

Without additional action by Congress, tribal governments will continue to have no direct access to critical CVF funds. Congress could remedy the exclusion of tribal governments by passing
authorizing language that amends the Victims of Crime Act, and there is currently an effort underway among a bi-partisan group of Senators and Congressmen to do so. The *Justice for Victims of Crime Act* would create a mechanism where an amount equal to the average collections for the past 3 years would be automatically disbursed from the CVF every year. The bill would also create a dedicated tribal allocation, and, if passed, would result in $100 million in funding for tribal governments to serve victims of crime. Unlike most legislation, this funding would be automatically disbursed and would not require any action by appropriators. It is expected that the *Justice for Victims of Crime Act* will be introduced very soon with bi-partisan support.

Alternatively, even if legislation like the *Justice for Victims of Crime Act* is not enacted, appropriators will be considering over the next several months how much should be disbursed from the CVF in the upcoming year, and they could direct a portion of that funding to tribal governments through the appropriations process. NCAI is working with members of Congress to raise awareness about the exclusion of tribal governments from the CVF and urges them to create a tribal funding stream either through authorizing language or through the appropriations process.

For more information, please contact NCAI Senior Policy Advisor Virginia Davis at v.davis@ncai.org

**REAUTHORIZATION OF THE TRIBAL LAW AND ORDER ACT & CRIMINAL JUSTICE**

NCAI urges that Congress prioritize the reauthorization of the Tribal Law and Order Act of 2010. The TLOA was a bi-partisan effort to improve the administration of criminal justice in Indian Country. All authorized funding under the TLOA is expiring this year. It is important that Congress not only reauthorize this funding, but also appropriate funds to address the crisis-level need for criminal justice in Indian Country.

The reauthorization of the TLOA should also serve as a vehicle for improvements to the Juvenile Justice system. Many Members of Congress have identified youth justice as a top priority, and Indian Country fully agrees. The Indian Law and Order Commission’s “Roadmap for Making Native America Safer” discussed the disturbing reality that American Indian youth face disproportionate exposure to violence and poverty. At present, the majority of youth in federal detention centers are Native youth, who also make up a disproportionate percentage of the state juvenile detention population. According to the TLOC Report, youth are placed in “generally unsafe, abusive, ineffective, and horribly expensive” situations that push them further into a life of crime. It is necessary for tribal juvenile justice systems to be able to develop alternatives to incarceration aimed at rehabilitation and treatment. We also recommend the development of tribal juvenile data collection, preventative family services, and a set-side for the Juvenile Justice and Delinquency Prevention Act which is also up for reauthorization.

The TLOA was also a vehicle for a series of important technical improvements to the federal criminal justice laws in Indian Country. Tribal justice systems now have nearly five years of experience with implementing the law, and that implementation has led to proposals to continue to make technical amendments to improve the law. Specifically, we ask that Congress reauthorize and make permanent the Bureau of Prisons Tribal Prisoner Pilot program, which expired on November 24, 2014. The Pilot Program created the option to send highly violent offenders to federal corrections facilities. Many tribes do not have the resources or personnel to adequately and safely house these
types of offenders. The federal system also offers greater access to treatment, rehabilitation, and reentry programs.

NCAI has also received increasing technical feedback from tribes on criminal justice concerns. As an example, we recommend that Congress consider updating the 18 U.S.C. 1165 regarding trespass. Trespass on an Indian reservation is treated as a misdemeanor under federal law, which may be appropriate for minor hunting and fishing trespasses. However, Indian reservations are experiencing increasing problems with serious criminal trespass and a lack of deterrence. Tribes are unable to address problems with sexual assault and stalking offenders who continue to return to the reservation to harass victims. Tribes also have difficulties with former lease tenants who overstay agricultural and residential leases for many years and refuse to leave or pay rent. Tribes are also experiencing problems with timber theft, repeated poaching, illegal mining and illegal marijuana operations. The Indian Country trespass crime should be updated to increase penalties and deterrence for those who cause serious threats to persons and loss of property.

**Legislative Update**

NCAI has requested the Senate Committee on Indian Affairs to hold hearings on reauthorization of the TLOA, and we encourage tribes to engage with Congress on improvements to the criminal justice system in Indian country.

For more information, please contact General Counsel, John Dossett at john_dossett@ncai.org

**EMERGENCY RESPONSE/HOMELAND SECURITY**

Historically, tribes have had limited access to grants which prevents them from adequately providing for emergency and first-responder responsibilities, extensive border security responsibilities, and law enforcement jurisdiction to deal with illegal immigration, terrorism, and smuggling. Tribes are part of the national homeland security strategy and in certain areas, are the only major governmental presence in many rural and isolated locations causing them to serve as the first, and oftentimes only, law enforcement authority and emergency responders for Native and non-Native communities alike. Tribal homeland security and emergency management operations funding is an essential component of the federal government’s trust responsibility.

On January 29, 2013 the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) was signed into law. The law includes a tribal provision that allows federally recognized Indian tribes to submit direct requests to the President of the United States for federal declaration of emergency or major disaster.

**Administrative Update**

The Federal Emergency Management Agency (FEMA) released its Tribal Consultation Policy in August 2014 establishing guidance for FEMA on “regular and meaningful” consultation and collaboration with tribal officials on actions that have tribal implications. FEMA is also set to release its Tribal Declarations Pilot Guidance which will describe the process tribal governments will use to request Presidential emergency or major disaster declarations. The guidance will also outline FEMA criteria used in determining a Presidential disaster declaration. More information can be found for both documents on the FEMA website at http://www.fema.gov/fema-tribal-affairs.
Tribes continue to seek adequate funding for developing capacity and sustaining homeland security and emergency management programs. Tribes are seeking to amend the Emergency Management Performance Grants (EMPG) which funds states’ emergency management programs. States could include tribes in the distribution of these funds but rarely do even if tribes meet state-determined criteria, often including unfunded mandates. Budget increases are also necessary for tribes to meet homeland security challenges through the Tribal Homeland Security Grant Program (THSGP). The current allocation of $10 million is available for only a portion of the 566 federally recognized tribal governments through a competitive process and has remained stagnant for several years. Tribal leaders are urged to propose legislative changes that will directly fund EMPGs to tribes and to request a minimum 100% increase in THSGP funding. Furthermore, NCAI encourages Congress to eliminate THSGP’s “directly eligible tribe” status and allow all tribes to apply.

For additional information, please contact Robert Holden, Deputy Director at 202.466.7767 or rholden@ncai.org
No resource is more important to the continued success and growth of our nation and Indian Country than our children. It is vital that we all work together to strengthen our human capital in all tribal communities across America. The most effective way to do that is to provide a high-quality, culturally-appropriate education that effectively and equally benefits all of our nation’s children—including our Native children. Ensuring equal educational opportunities is not simply a matter of fairness, but even more importantly in today’s challenging economic climate, it is an essential strategy for creating jobs and securing the nation’s future prosperity especially in tribal communities. Education also drives personal advancement and wellness, which in turn improves social welfare and empowers communities—elements that are essential to protecting and advancing tribal sovereignty and maintaining tribes’ cultural vitality.

The federal government provides education to Indian students in two ways, through federally funded Bureau of Indian Education (BIE) schools or through education assistance to public schools where Indian students attend. Currently 620,000, or 93%, of Indian students attend public schools and approximately 45,000, or 7%, attend BIE schools. There are 184 BIE-funded schools (including 14 peripheral dormitories) located on 63 reservations in 23 states.

Many challenges exist in reforming the educational system for Native students. For example, the 2011 National Indian Education Study found that Native students continue to score significantly lower than their peers in reading and math in grades four and eight. The severity of the current state of Indian education is perhaps most apparent in the Native high school dropout rate. The graduation rate for American Indian and Alaska Native high school students is 67 percent—the lowest of any racial/ethnic demographic group across all schools.1 Even worse, the graduation rate for Native students in the Bureau of Indian Education (BIE) school system is a staggering 53 percent compared to the national average of 80 percent.2 In fact, recent data finds that while the graduation rates continue to rise nationally, with strong gains by the Latino and African American communities, Native American students have experienced only modest improvements since 2000 and have seen their graduation rates actually decline since 2008.

As Congress renews its efforts this year in reforming Indian Education it is critical for tribal priorities to be included.

Legislative Update

*Elementary and Secondary Education Act (ESEA) Reauthorization.* Both the Senate and House are taking up legislation to reauthorize the Elementary and Secondary Education Act (ESEA). In the Senate, Chairman Alexander (R-TN) of the Senate Health Education, Labor, and Pensions Committee released an ESEA discussion draft and accepted comments through February 2nd. The Committee is now reviewing those comments with a goal of introducing a bill to reauthorize the ESEA early

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this year. The draft touches on several key priorities for the new majority in the Senate such as greater state and local control of education, the option for states and local school districts to have greater flexibility to determine their own school accountability systems and interventions in failing schools compared to the current annual state assessments required from grades 3-8 and once in high school under current law, providing for the portability of Title I funding dollars to follow students who wish to attend another public school of the parent's choice.

In the House, Chairman Kline (R-MN) of the House Education and Workforce Committee introduced H.R. 5, the *Student Success Act*, earlier this month, which has since been voted favorably out of committee along party lines. The bill has since been referred to the Financial Services Committee for action. The *Student Success Act* preserves the Indian Education title of ESEA, unlike last year's ESEA reauthorization bill, which required sustained advocacy to add those provisions back into the bill.

NCAI has adopted several resolutions related to ESEA that call for greater tribal control of the education of Native students by elevating the role of tribal educational agencies, the need for more language and culture-based education to address the unique learning needs of Native students, and equitable funding for BIE schools to be eligible for programs provided under ESEA.

**Native Languages.** In the last session of Congress, legislation was introduced in both the Senate and House that would amend Title VII of ESEA by establishing a new grant program to support schools using Native languages as the primary language of instruction and would assist schools in developing and maintaining language immersion programs. The bills were voted favorably out of their committees of jurisdiction but never received a vote on the floor for final passage. In addition, legislation was also introduced to reauthorize the Esther Martinez Native Languages Initiative but also was never given a floor vote in either Chamber. NCAI urges Congress to again take up these important pieces of legislation that are vital to meet the unique educational and cultural needs of Native students in the classroom and in their communities.

**Reauthorization of the Head Start Act.** The authorization of the Head Start Act expired in 2012 and NCAI urges Congress to reauthorize this Act in this session of Congress. The Head Start Act was created in 1965 during the Johnson administration to provide comprehensive services to low-income three- and four-year-old children to help prepare them to enter kindergarten by improving the conditions necessary for success in school and life. The 1994 reauthorization of the Head Start Act created an Early Head Start program in order to expand services to children from birth to age three. The House Education and Workforce Committee released a white paper discussing the Head Start Act and is currently taking public comment through June 1st.

NCAI urges its tribal leaders to submit comments to the Committee on the importance of the Head Start program in Indian Country and the need for growth and expansion of addressing the unique cultural and educational needs of Native children. Comments can be submitted through June 1st to headstart.reform@mail.house.gov.

**Reauthorization of the Higher Education Act (HEA).** NCAI will be monitoring upcoming efforts to reauthorize the Higher Education Act which expired at the end of 2013. The HEA provides key funding and opportunities to Indian Country's tribal colleges and universities (TCUs) as well as
critical resources to other minority-serving post-secondary institutions to ensure Native students in post-secondary education succeed and thrive in the 21st century economy.

**Administrative Update**

*Bureau of Indian Education (BIE) Blueprint for Reform.* As part of President Obama's trip to Indian Country last year, the administration announced the “Blueprint for Reform” to address the shortcomings of the BIE that have plagued the bureau for years. The Blueprint for Reform was followed up with a Secretarial Order to implement the Blueprint. The implementation is being rolled out over the course of the current school year (2014-2015) and the upcoming school year (2015-2016) with the aim of transforming the BIE from a direct provider of education into a capacity-builder and service-provider to tribes with BIE-funded schools. The reforms are being offered to tribes who voluntarily wish to take greater control of BIE-funded schools in their communities. NCAI will continue engaging tribal leaders and educators during the ongoing reform process to ensure their views and priorities are integrated into the reforms.

*School Environment Listening Tour – Native American Students.* Last fall, the White House Initiative on American Indian and Alaska Native Education (Initiative) and the Department of Education's Office for Civil Rights launched the first-ever school environment listening tour geared towards Native students across the country. The Administration visited schools and communities from across the country on ways to better meet the unique educationally and culturally-related academic needs of Native American students. A report of the tour is expected to be released in the near future.

*2014 White House Native Youth Report.* During the annual White House Tribal Nations Conference, the administration released the White House Native Youth Report that acknowledged past failures of federal policy on the education of Native students, explores the breadth of challenges facing Native children, and makes recommendations for a path forward. NCAI supports the administration's efforts to shed greater light on the critical needs facing Native children and will work with the administration on advocating for key policy changes needed to better serve Native students in the classroom and in their home communities.

*Native Youth Community Projects.* As part of the administration's efforts to better serve Native youth and further empower tribal communities to play a greater role in ensuring their children's holistic wellbeing, the administration through the existing Demonstration Grants Program will be providing funding to a select number of Native communities to support culturally relevant coordinated strategies designed to improve the college-and-career readiness of Native children and youth. The latest FY 2016 Budget Request from the administration requests $53 million for this grant program. NCAI urges Congress to fully support this funding program and others currently in place across the federal government.

Both the Bureau of Indian Education (BIE) and the Department of Education will be conducting consultations and providing updates of their ongoing work reforming Indian education during NCAI's Executive Council Winter Session.

*For additional information, please contact Cesareo Alvarez, Legislative Fellow at 202.466.7767 or calvarez@ncai.org*
**HEALTH**

The health and wellness of tribal communities depends on a network of health, education, and wellness service providers, prevention coordination, and tribally-driven initiatives. Despite the federal government’s trust responsibility to provide health care to American Indians and Alaska Natives, American Indians and Alaska Natives continue to experience the greatest health disparities in the United States when compared to other Americans. Shorter life expectancy and the disease burdens carried by American Indians and Alaska Natives exist because of inadequate education, disproportionate poverty, discrimination in the delivery of health services, and cultural differences. These are broad quality of life issues rooted in economic adversity, poor social conditions, and decades of historical trauma.

Tribal leaders recognize that the responsibility for wellness of their community lies with the tribal government working in concert with their citizens and with agencies across the federal government. The Indian Health Service has been and continues to be a critical institution in securing the health and wellness of tribal communities, and advance appropriations are necessary for IHS. NCAI passed a resolution (ANC-14-007) requesting Congress to amend the Indian Health Care Improvement Act to authorize Advance Appropriations and to include IHS Advance Appropriations in the budget resolution and in the enacted appropriations bill.

At nearly 16.1%, the American Indian and Alaska Native population has the highest rate of diabetes among all U.S. racial and ethnic groups, and an estimated 30% percent of American Indians and Alaska Natives are pre-diabetic. In 1997, Congress addressed the growing epidemic of diabetes in American Indian and Alaska Native communities by passing the Balanced Budget Act which established the Special Diabetes Programs for Indians (SDPI). The Special Diabetes Programs for Indians provides assistance for developing local initiatives to treat and prevent the disease and has served as a comprehensive source of funding to address diabetes issues in tribal communities by providing grants for diabetes prevention and treatment services to more than 400 Indian Health Service, tribal, and urban Indian health programs in 35 states. These grants are critical to improving the overall health of American Indian and Alaska Native people because they greatly enhance the effectiveness of preventative health programs and allow programs aimed at stopping the spread of diabetes to children and young adults to be established. NCAI passed a resolution (ATL-14-003) requesting Congress to permanently reauthorize the Special Diabetes Program for Indians and to provide full funding for permanent continuation of this program.

The Affordable Care Act (ACA) provided for permanent reauthorization of the Indian Health Care Improvement Act, ending a 17 year effort for reauthorization. Tribes are adamantly opposed to repeal of the ACA, however, if this Congress takes up specific provisions of the bill, tribal leaders seek a fix to the definition of Indian within the ACA. There are three separate definitions of Indian throughout the ACA which creates inconsistency in eligibility for certain benefits. Tribes seek consistency in the definitions to ensure that all American Indians and Alaska Natives have access to the special benefits and protections. NCAI passed a resolution (ABQ-10-080) requesting that one definition of “Indian” be recommended in implementation of the Affordable Care Act, providing support for the definition of “Indian” that was adopted by the Centers for Medicare and Medicaid Services in its implementation of the Medicaid cost sharing protections (45 C.F.R. 447.50), limiting the use of the definition to implementation of the Affordable Care Act, and prohibiting the use of the definition or interpretation to affect who is eligible for services.
Legislative Update

**Advance Appropriations for the Indian Health Service, H.R. 395.** On January 14, 2015, Congressman Don Young (R-AK), Chairman of the House Natural Resources Subcommittee for Indian and Alaska Native Affairs, along with Rep. Ben Ray Lujan (D-NM), introduced the “Indian Health Service Advance Appropriations Act of 2015” (H.R. 395). Advance appropriations will ensure that the Indian Health Service and tribal health care providers have adequate advance notice of the amount of federal appropriations to expect to administer health programs and services to American Indian and Alaska Native people and thus not be subjected to the uncertainties of late funding and short-term continuing resolutions. In the last session of Congress, Senator Murkowski also introduced legislation to secure advance appropriation for Indian Health Service, but no Senate legislation has been introduced to date, however, Senator Murkowski is Chair of the Senate Interior Appropriations Subcommittee, so NCAI will continue to encourage action on advance appropriations.

**Special Diabetes Program for Indians.** The Special Diabetes Program for Indians was last reauthorized in 2014 for a period of one year, and its current authorization expires on September 30, 2015. NCAI requests that legislation offering permanent reauthorization and full funding be provided for the permanent continuation of this program.

Administrative Update

**Medicare Like-Rates.** The IHS Proposed Rule entitled “Payment for Physician and Other Health Care Professional Services Purchased by Indian Health Programs and Medical Charges Associated with Non-Hospital-Based Care,” 79 Fed. Reg. 72160 (Dec. 5, 2014) had a deadline of February 4, 2015 for comments. Tribes submitted timely comments requesting several revisions to the Proposed Rule and requesting tribal consultation.

**Employer Mandate.** The employer shared responsibility mandate, effective January 1, 2015, requires tribes with 50 or more full-time and/or full-time equivalent employees to offer health coverage to full-time employees (and their dependents) or face significant penalties. Many tribal employers cannot afford to purchase health coverage for their employees and would have to sacrifice other programs and services to try and meet the requirement. As the work forces of many tribes are made up of tribal members, most of their employees are exempt from the mandate and a tribal employer should not be required to offer or pay for such coverage. Moreover, many tribal employers rely upon the Indian Health Service to provide health care to tribal member employees as part of the federal trust responsibility and do not offer health coverage on this basis.

Throughout ACA implementation, tribes have been informed by HHS and the Center for Consumer Information and Insurance Oversight (CCIIIO) that the special benefits and protections for American Indians/Alaska Natives under the ACA support the federal trust responsibility and have been encouraged to carry this message to tribal citizens to encourage enrollment in the Marketplace. Many tribes have sponsored trainings and hosted enrollment events for tribal members, and many have even implemented premium sponsorship programs.

The application of the employer mandate to tribes is inconsistent with the federal trust responsibility because it denies tribal member employees the opportunity to take advantage of the special benefits and protections available to American Indians/Alaska Natives. In 2015, if a tribal
employer offers coverage that meets the requirements of the mandate to tribal member employees, the tribal member employees will be disqualified from receiving a premium tax credit, making the coverage unaffordable and the American Indian/Alaska Native cost sharing exemptions inaccessible. The tribal member employees would then be faced with having to pay for less beneficial employer coverage (e.g., a portion of the employee premium, 100% of dependent coverage, and high cost sharing) or opt for having no coverage.

If a tribal employer decides not to make an offer of health coverage to full-time tribal member employees, these employees would be eligible for a premium tax credit in the Marketplace. Receipt of a tax credit by one full-time employee subjects the employer to a penalty of $2,000 per employee per year multiplied by the number of full-time employees. Even if a tribal employer offers coverage, a tribal employer could incur the second type of penalty if the coverage is not affordable or does not provide minimum value, allowing a full-time tribal member employee to receive a tax credit. In this case, the penalty would be $3,000 per year multiplied by the number of full-time employees who have received a tax credit.

The IRS and CCIIO policies conflict with each other. Tribal employers should not have to decide between: complying with the mandate which denies tribal members’ benefits to which they are entitled, and paying costly insurance premiums which they cannot afford for tribal members who are exempt from the individual mandate; or allowing tribal members to access the benefits at the expense of paying costly penalties to the federal government when the federal government has a trust responsibility to provide health care to American Indians/Alaska Natives.

A letter was submitted to the White House in January, 2015, requesting relief for tribes from the employer mandate. Prior to the letter, HHS was made aware of the conflict between the HHS and IRS policies through the Secretary of HHS’s Tribal Advisory Committee and in other consultations. NCAI will continue to work with tribes and the Administration to resolve this issue.

For additional information, please contact Laura Bird, Legislative Associate, at lbird@ncai.org

**CHILD WELFARE**

The federal government has unequivocally recognized that there is nothing more vital to the continued existence and integrity of Indian tribes than their children. The federal government must empower tribes through programs and services necessary to safeguard their children and strengthen their families. Tribal welfare programs are comprised of a number of “discrete, yet interconnected” functions that include child abuse prevention, child protection, case management, foster care, foster home recruitment, permanent placement, court hearings, ICWA coordination and collaboration, and referrals to other services.

Tribal child welfare programs work tirelessly to successfully serve children and families through holistic, strengths-based, culturally appropriate, and family-centered services. Throughout Indian Country, tribes implement innovative child welfare services such as family group decision-making processes, peacemaking courts, Positive Indian Parenting classes, culture camps, and customary adoptions to protect and support children while keeping them connected to their families and communities. In providing these services, a great number of tribes work simultaneously, in numerous jurisdictions across the country, to defend tribal and family rights threatened by state
child welfare and court systems. Tribes’ enduring service to children, families, and communities persists in the face of elevated risks of child abuse and neglect.

The Attorney General’s Advisory Committee on American Indian/Alaska Native Children Exposed to Violence emphasized that “American Indian/Alaska Native children are generally served best when tribes have the opportunity to take ownership of the programs and resources they provide.”

NCAI urges Congress and the Administration to prioritize the safety and well-being of all children.

**Legislative Update**

*Native American Children’s Safety Act, S. 184.* On January 16, 2015, Senator Hoeven (R-ND) introduced the Native American Children’s Safety Act, a bill to amend the Indian Child Protection and Family Violence Prevention Act to require background checks prior to foster care placements in tribal court proceedings. Senator Hoeven introduced the same bill last year and the bill was favorably reported out of the Committee, but did not receive a vote by the full Senate. Because the legislation received a hearing and was considered by the Committee in the last session, S. 184 has already received a mark-up this session and has been favorably reported out of the Committee and is ready for action by the full Senate.

*Alyce Spotted Bear and Walter Soboleff Commission on Native Children Act, S. 246.* This legislation, introduced by Senator Heitkamp (D-ND) creates an 11-member Commission on Native Children to conduct a comprehensive study on the programs, grants, and support available for Native children, both at the federal level and on the ground in Native communities. This bill is identical to legislation introduced by Senator Heitkamp in the last session of Congress that was reported favorably out of the Committee, but did not receive action by the full Senate. NCAI urges Congress to take action on these and other pieces of legislation that can improve the welfare of Native youth.

**Administrative Update**

*Child Care and Development Block Grant Act of 2014 Implementation.* In the last session of Congress, S. 1086, the Child Care and Development Block Grant Act of 2014 (CCDBG) was enacted and signed into law on November 19, 2014. This law is now being implemented by the Administration for Children and Families within the Department of Health & Human Services.

Several provisions within this bill have a direct impact on tribes including: a tribal set-aside of not less than 2% (prior law said “up to” 2%); a requirement for state training and professional development to be accessible to Tribal Child Care and Development Fund provides and appropriate for Native Children; State Lead Agencies must demonstrate in their Plan how they are encouraging partnerships with Tribes and Tribal organizations; and at the option of Tribes, States must coordinate with Tribes in the development of the State Plan.

The Administration for Children and Families is holding consultations on the impact of implementation of the CCDBG on tribes, and will conduct a consultation at NCAI’s Executive Council Winter Session on February 23rd. NCAI urges tribes to participate in the consultations and provide input on implementation of CCDBG.
Bureau of Indian Affairs Child Welfare Act Guidelines. Last year, the Bureau of Indian Affairs held a series of listening sessions on the Indian Child Welfare Act Guidelines with the goal of re-examining and updating the Guidelines for state courts. During the listening sessions the Bureau heard from tribal leaders, tribal court judges and attorneys, social workers, ICWS staff and tribal members on suggested revisions to the Guidelines. The first listening session was held at NCAI’s 2014 Executive Council Winter Session where the main areas of focus were: state ICWA accountability including data collection and reporting to the tribes; building the tribal-state relationship to increase ICWA complaints; the application of ICWA to all juvenile justice cases; ICWA training for state courts and resources for the child welfare system.

The Bureau is currently reviewing the comments from last year’s listening sessions. NCAI urges the Bureau to update the Guidelines to address the child welfare needs of Native children.

Attorney General’s National Task Force on Children Exposed to Violence. In November 2014, the Attorney General’s Advisory Committee on American Indian/Alaska Native Children Exposed to Violence issued a report entitled, “Ending Violence so Children Can Thrive.” The report was compiled following a number of hearings and listening sessions conducted throughout Indian Country, and presents the Advisory Committee’s policy recommendations that are intended to serve as a blueprint for preventing American Indian and Alaska Native children’s exposure to violence and for mitigating the negative effects experienced by those Native youth exposed to violence.

The recommendations fall within five main areas: (1) Building a Strong Foundation; (2) Promoting Well-Being for American Indian and Alaska Native Children in the Home; (3) Promoting Well-Being for American Indian and Alaska Native children in the Community; (4) Creating a Juvenile Justice System that Focuses on Prevention, Treatment and Healing; and (5) Empowering Alaska Tribes.

NCAI urges the Administration and Congress to take prompt action based on the findings and recommendations in this report and to implement policies that will provide greater safety and security for Native Children.

For additional information, please contact Denise Desiderio, Policy & Legislative Director at 202.466.7767 or ddesiderio@ncai.org

CULTURAL PROTECTIONS

The protection of Native cultures spans across complex statutory and regulatory aspects of the federal government. Success in navigating these complex structures has resulted in the repatriation of cultural items, guidance regarding tribal member possession of eagle feathers, and increased access to sacred places for religious and spiritual practices. NCAI continues to prioritize its advocacy and education efforts to protect the religious freedoms of Native peoples while supporting cultural preservation efforts.

Legislative Update

Passage of NDAA with tribal land bill riders. On December 22, 2014, President Obama signed into law the National Defense Authorization Act for Fiscal Year 2015 (NDAA). The FY 2015 spending agreement authorized nearly $577 billion in defense spending for the Department of Defense,
Pentagon, and national security programs under the Department of Energy. Additionally, there were nearly 100 land bills attached to the NDAA authorization, which included 19 federal land conveyances and nine with tribal implications. Seven of the tribal land bills that were added as riders to the NDAA benefited tribes by transferring federal lands to tribes and with some of those transfers being placed in trust.

However, two detrimental tribal land bills that were added included the Southeast Arizona Land Exchange and Conservation Act and the Rattlesnake Mountain Public Access Act. The Southeast Arizona Land Exchange and Conservation Act authorized the transfer of 2,400 acres of U.S. Forest Service land in southeast Arizona to Resolution Copper, a subsidiary of a foreign mining company. Included in the transfer is a known tribal sacred place to the San Carlos Apache tribe and others in the region. The Rattlesnake Mountain Public Access Act instructs the Department of Interior to provide public access to Rattlesnake Mountain for recreational, historical, scientific, educational, and cultural purposes. Rattlesnake Mountain is a sacred mountain to the Yakama and Umatilla people of Washington State, who have consistently opposed measures to enable public access to the 3,600-foot summit.

Since the legislation has passed, the focus turns to influencing implementation of these provisions, and NCAI will continue to fight for equal protections for our sacred religious places of worship.

**H.R. 687, The Non-Disparagement of Native American Persons or Peoples in Trademark Registration Act.** On February 3, 2015, Congressman Honda introduced H.R. 687 to retroactively cancel any existing federal trademarks and prohibit the U.S. Patent and Trademark Office (USPTO) from registering future trademarks that use the term r*dskins when referencing Native Americans. NCAI supports this legislation and will also continue to support Congressional, Administration, and external efforts to remove the use of this disparaging term.

**Administrative Update**

**MOU on “Sacred Sites”.** On December 4, 2012, the United States Departments of Defense, the Interior, Agriculture, Energy, and the Advisory Council on Historic Preservation entered into a Memorandum of Understanding, “Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites” (MOU). Since then, the MOU Working Group has developed discussion drafts on confidentiality and cultural sensitivity training for federal employees. The MOU group is in the process of developing federal training and cultural sensitivity standards to be released later this year.

**Eagle Protections.** In December 2013, the Administration approved the extension of “eagle take” permits from a five-year reauthorization to a 30 year period without tribal consultation. Recognizing the lack of consultation regarding this issue, NCAI provided comments strongly urging USFWS consult and engage with tribes, tribal religious and spiritual leaders, and tribal conservation and environmental experts regarding the ongoing development and implementation of federal policies related to eagles.

On June 23, 2014, USFWS released a Notice of Intent (NOI) to prepare an environmental assessment or environmental impact statement (EA/EIS) for “eagle take” permits. The NOI also announced five public scoping meetings across the country to discuss and receive input regarding the proposals. NCAI attended the last scoping meeting, held in Washington, DC on August 7, 2014,
at the Department of the Interior, South Building. NCAI referenced this in its NOI comments, again citing that USFWS did not announce or hold any consultation with tribal entities and that the Public Scoping meeting did little to recognize tribal interests except for a three sentence blurb on its Cultural Resources and Values handout.

NCAI continues to work with our partners in monitoring the implementation of changes to the “eagle take” permitting processes at the U.S. Fish and Wildlife Service (USFWS).

For additional information, please contact Brian Howard, Legislative Associate, at 202.466.7767 or bhoward@ncai.org

**NATIVE AMERICAN ELDERS**

In tribal communities, elders are held in the highest regard due to their traditional status as “wisdom-keepers” and are deserving of honor and respect. However, American Indian and Alaska Native elders are at a growing risk of financial exploitation, neglect, and abuse. In fact, it is these same elders in Indian Country that comprise the most economically disadvantaged elderly minority in the nation.³

The number of American Indian and Alaska Native Elders 65 and older is expected to double by 2030. As the elder population continues to grow, so too does abuse and maltreatment of those who require care. A 2004 profile on American Indians and crime prepared by the Bureau of Justice Statistics (BJS), and the U.S. Department of Justice (DOJ), reported that among persons in the 55 or older category, the American Indian violent crime rate was 22 per 1,000 versus the overall rate of 8 per 1,000.⁴

The Older Americans Act (OAA) is the major federal statute that authorizes social and nutritional services to elders. These supportive services include congregate and home-delivered nutrition services; community centers; community service employment; long-term care ombudsman programs; information and referral services; and services to prevent the abuse, neglect, and exploitation of the elderly population. The OAA specifically states “it is the purpose of this Title to promote the delivery of supportive services, including nutrition services, to American Indians, Alaska Natives [SIC], and Native Hawaiians that are comparable to services provided under Title III” (grants for state and community programs on aging).

Grants to tribes have a history of being both well-managed and insufficiently funded to meet existing needs. Due to inadequate funding to carry out the purpose of Title III, “comparable services” for Native elders have not been achieved. Tribal governments have little or no access to the same agencies, departments, ombudsman, or programs that are available to states. In addition, state programs seldom serve Native elders due to cultural and geographic barriers. Immediate action needs to be taken in order to remedy these disparities and ensure that Native elders are well taken care of.

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³ US Census Bureau, 2006 American Community Survey, Table B17024: Age by Ratio of Income to Poverty Level in the Past 12 Months

At our most recent convention in October of 2014, NCAI adopted several resolutions related to reauthorization of the Older Americans Act and improvement of elder services and protections in Indian Country. All resolutions are accessible online at www.ncai.org

Legislative Update
Reauthorization of the Older Americans Act. The current authorization of the Older Americans Act (OAA) of 1965 expired in 2011 and has since been due for reauthorization. In the last session of the 113th Congress, bills were introduced in both the House and the Senate to reauthorize the Older Americans Act through FY2018. Neither bills made it to the floor to be voted upon.

On January 20, 2015, Senator Alexander (R-TN) introduced the bipartisan Older Americans Reauthorization Act of 2015. Among other important provisions, the bill puts in place strong protections against elder abuse by increasing existing abuse screenings and prevention efforts. It also preserves authorized funding levels through 2018. The Senate Health, Education, Labor, and Pensions Committee unanimously approved the legislation and has since placed it on the Senate Legislative Calendar. To date, there is no OAA reauthorization legislation in the House.

NCAI urges this 114th Congress to take swift action to reauthorize the Older Americans Act.

Administrative Update
The first official Tribal Consultation by the Administration for Community Living/Administration on Aging (ACL/AoA) was held in conjunction with the 2014 National Title VI Training and Technical Assistance Conference which was held in Washington, DC from August 18-August 21, 2014.

In preparation for reauthorization of the Older Americans Act (OAA), the Administration on Aging (AoA) began an open process in 2010 to solicit input from throughout the country. More than 60 listening sessions were held and online input was received that represented the interests of thousands of consumers of OAA services. Input led to the creation of the targeted changes proposed by the Administration which can be viewed at http://www.aoa.acl.gov/AoA_Programs/OAA/Reauthorization/Target_Change.aspx.

AoA has since provided information on program outcomes and the important role that the Act's services play in the lives of our elders. The Administration also provided extensive technical assistance to requests from Committee staff about various reauthorization proposals leading up to unanimous passage of bipartisan legislation by the Senate Committee on Health, Education, Labor and Pensions. The Committee on Education and the Workforce is also requesting AoA's assistance in providing program information and technical assistance as the House of Representatives begins its process of developing a bill to reauthorize the OAA.

For additional information, please contact Mari Hulbutta, Legislative Fellow, at 202.466.7767 or mhulbutta@ncai.org
Native Veterans

American Indians and Alaska Natives have proudly served in the United States military since the Revolutionary War. From earlier struggles such as the Spanish-American War to the present-day conflicts in Iraq and Afghanistan, Native people continue to serve at higher percentages than any other ethnic group. It is estimated that over 150,000 veterans identify as American Indian and Alaska Native, with over 24,000 active duty Native service members currently serving in the Armed Forces. With their warrior tradition and the sacrifices that have been made, it is vital to create sound policies and programs to promote the overall wellbeing of our Native veterans. NCAI seeks fair and dignified treatment of all veterans while advocating for federal support and funding for Native veteran programs and services that are greatly needed and deserved.

Native veteran issues are similar to those of non-veteran tribal community members including the need for adequate health care to address increases in the incidence of diabetes, various types of cancer, neurological and auto-immune disorders; unemployment; domestic violence; substance abuse; criminal activity; and suicide. Native veterans are the single most underserved group of veterans of the American Armed Forces. Geographical distances present challenges for many veterans to access resources and programs not only for compensation and pensions, but for economic and educational benefits through the Department of Veterans Affairs (VA), the Department of Labor, the Small Business Administration, and other federal agencies and entities. This is particularly true of those who live on reservations and in tribal communities where there are considerable distances between clinics and medical centers operated by the Department of Veterans Affairs Health Administration.

Legislative Update

Improper State Taxation of Reservation-Domiciled Service Members. Federal law prohibits states from taxing the pay of military service members who are not a domiciliary of that state. For up to twenty-four years, the U.S. Department of Treasury improperly withheld military pay for states from American Indian service members domiciled on reservations in twenty-six states. We call upon Congress to address this matter by providing Congressional oversight and restoring pay to eligible Native American veterans and service members who were illegally taxed by the state in which they were domiciled on their reservation during their time of military service.

Administrative Update

Tribal Veterans Service Officers in Indian Country – Parity with State and County Veterans Service Officers. Tribal veterans should have equal access to representation and the benefit of services from the Department of Veterans Affairs (VA). One great first step to better ensuring this happens for our veterans is to provide the establishment of Tribal Veteran Service Officers (TVSOs) who are designated by local tribal leadership. These officers would function on the same basis as state and country veterans service officers pursuant to 38 C.F. R. Sect. 14.628. The current use of Tribal Veterans Representatives (TVRs) is insufficient as their purpose is to purely disseminate information to veterans, not to be their advocates. TVRs are trained by VA personnel often with no knowledge or awareness of the local Native culture and needs. TVSOs makes sense both as a matter of tribal sovereignty of providing their own representation and advocacy on behalf of tribal governments’ veterans before the VA. Further, TVSOs will ensure greater cultural competency in the pursuit of claims arising from psychic trauma and other mental/behavioral issues affecting veterans—they will provide for cultural competent mental health evaluations and facilitate the use of traditional healing practices in that process. TVSOs would meet the same
employment/appointment, training, and certification standards that apply to State and County Veterans Service Officers.

Indian Health Service/Veterans Administration – Memorandum of Understanding. It is appalling that Native veterans have become victims of bureaucratic technicalities in the health care delivery system. In 2010 the Indian Healthcare Improvement Act was permanently reauthorized as Title X under the Patient Protection and Affordable Care Act. Included in Title X was a provision mandating the Department of Veterans Affairs (VA) to reimburse tribes, the IHS, and tribal organizations for services provided to veterans. A memorandum of understanding has since been established between the VA and the Indian Health Services to aid this provision. However, the Veterans Administration is only reimbursing tribes that (1) agree to enter into a model agreement the VA has developed, and (2) the VA does not allow for reimbursement of purchased/referred care provide through tribal health programs to veterans, limiting reimbursement to only direct service care. The Veterans Administration's implementation of this provision of Title X must be done in a manner that is streamlined and focuses on providing timely and quality health care. We are asking Congress to conduct oversight hearings on this matter to ensure the most effective delivery of health services to which Native veterans are entitled.

For additional information, please contact Robert Holden, Deputy Director, at 202.466.7767 or rholden@ncai.org
Native Americans were the last to obtain the right to vote in the United States, and Native voters continue to face persistent barriers in exercising that right. Some jurisdictions continue to implement schemes that impair the ability of Native people to fully participate in the electoral process. Native voters often live far from established polling places and registration sites in remote, isolated areas, with high rates of poverty, and in some areas, limited English proficiency. As a result, turnout in the 2012 elections among American Indians and Alaska Natives nationwide was 17 percentage points below that of other racial and ethnic groups.

Section 5 of the Voting Rights Act was an important mechanism for protecting Native voters. Some areas with very large Native populations were covered under Section 5’s preclearance procedures, which required the Department of Justice to approve changes in voting procedures before they were implemented by these jurisdictions. Since the Supreme Court’s Shelby County decision, states and localities have pushed forward potentially discriminatory changes to voting including the elimination of in-person voting for the residents of more than a dozen Native villages in Alaska, many of whom are Native language speakers. Stricter voter I.D. laws, the moving and elimination of polling places, and diminished access to voter registration opportunities have further burdened Native Americans’ right to vote since the Shelby County decision.

American Indian and Alaska Native stakeholders from across the country have identified five issues frequently encountered by Native voters that should be addressed by Congress:

- **Access to the Polls:** The most common and serious concern consistently raised by Native Voters is distance to polling locations. Some Alaska Native Villages, for example, are assigned to polling places that are a 150-mile roundtrip and accessible only by plane or boat. Similarly, compared to other voters, many Native people have less access to early voting and voter registration opportunities.

- **Voter ID Laws:** For many Native people, their only identification document is issued by their tribe. However, state laws vary on whether these are acceptable forms of identification for voting. States should not be permitted to discriminate against tribal documents in their voter ID laws.

- **Voter intimidation:** Every election cycle there are reports of Native voters being harassed or intimidated at the polls. Tribal communities should have the ability to secure federal election monitors when they have reason to believe that harassment or discrimination may occur.

- **Language access:** Many Native voters, particularly elders, speak their indigenous language and require language assistance to vote. The Voting Rights Act provides that voting materials shall be provided in the language of the applicable language minority group as well as in the English language. However, some jurisdictions interpret the VRA to deny language assistance to Native voters even when a written form of the applicable Native language currently exists.

- **Voting Rights Consultation and Enforcement:** Because of isolation and a historic lack of access to legal services, there has been less litigation to enforce the Voting Rights Act in Indian Country than in other places. Litigation is very costly and time-consuming and Indian Country needs

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protections that do not rely on lawsuits brought by disenfranchised voters with few resources. The Department of Justice is well-positioned to use its resources to help ensure enforcement of the Voting Rights Act in Indian Country and should be required to consult with Indian tribes on a government-to-government basis to gather information about voting issues experienced by Native voters.

Legislative Update

H.R. 885, Voting Rights Amendment Act. Congressmen Sensenbrenner and Conyers recently re-introduced the Voting Rights Amendment Act (VRAA) in the House and similar legislation is expected in the Senate. This bi-partisan legislation would address the Supreme Court's decision in Shelby County v. Holder, and the issue of “preclearance,” where certain state and local jurisdictions with a history of voting rights violations must submit changes to voting rules or procedures to the Department of Justice for approval. In Shelby County, the Supreme Court decided that the list of preclearance jurisdictions was based on outdated information, and struck down that portion of the law until updated by Congress. The decision eliminated an important mechanism for protecting many Native voters.

The Sensenbrenner/Conyers proposal would set a “rolling trigger,” where jurisdictions with three to five violations of federal election law over the most recent 15 years would be subject to preclearance. Relevant to Indian country, jurisdictions like Arizona and Alaska and some counties in South Dakota that were subject to preclearance before Shelby County would not be covered under the proposed legislation unless they committed future violations.

NCAI proposed amendments to the VRAA in the last Congress addressing voter discrimination in Indian Country and urges Congress to enact stronger protections for Native voters.

Administrative Update

The Administration, through the Department of Justice, held a consultation with American Indian/Alaska Native leaders last year to discuss the possibility of proposing federal legislation addressing the obstacles facing Native voters. To date, the Department of Justice has not yet released these proposals, but NCAI is hopeful that the consultation will soon result in proposed legislation crafted to ensure equal Native access to voter registration, early voting opportunities, and election day polling places.

For additional information, please contact Virginia Davis, Senior Policy Advisor, at vdavis@ncai.org

Self-Governance

Self-Governance enables tribes, as sovereign nations, to exercise their right to be self-governing and to take program funds and manage them in ways that best fit the needs of their citizens and tribal communities. It places the federal government’s Indian Country programs firmly in the hands of the people who are served by them, enhancing and empowering tribal governments and their institutions, all while reducing the federal bureaucracy. As a tribally-driven initiative created through Congressional legislation, it allows tribal governments to negotiate annual appropriated funding and to assume management and control of programs, services, functions, and activities—or portions thereof—that were previously managed by the federal government.
As of 2015, there are 254 Self-Governance tribes within the Department of the Interior-Bureau of Indian Affairs (DOI-BIA) and 341 Self-Governance Tribes within the Department of Health and Human Services-Indian Health Service (DHHS-IHS). Over the past 35 years, the ISDEAA has been one of the most successful mechanisms empowering tribes to develop the capacity for government-building activities. Self-Governance tribal leadership and representatives have held ongoing meetings with the Administration and Congress for more than 25 years regarding ways to improve and advance tribal self-governance. Amending Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA) has been a top legislative priority for Self-Governance tribes for more than a decade. However, Title IV of the ISDEAA, the Self-Governance program within DOI, has serious gaps and problems. Therefore, leaders of Self-Governance tribes continue to advance the vision of the ISDEAA by working to amend Title IV of the ISDEAA to create consistency and administrative efficiency for Self-Governance tribes between Title IV Self-Governance in the DOI and Title V Self-Governance in the DHHS.

**Legislative Update**

*S. 286 – Department of the Interior Tribal Self-Governance Act of 2015*. Senator Barrasso (R-WY) reintroduced this tribally-requested Interior Tribal Self-Governance Amendments legislation in the current 114th Congress. It would reform DOI’s self-governance rules to match those governing IHS self-governance agreements, thereby removing the inefficiency now burdening Indian Tribes who must meet dual, sometimes differing requirements as they administer self-governance agreements with Interior and IHS. Action was quickly taken by the Senate Committee on Indian Affairs as the bill was marked-up favorably out of Committee. A House companion bill has not been introduced yet.

*For additional information, please contact John Dossett, General Counsel at 202.466.7767 or john_dossett@ncai.org*

**Federal Acknowledgement**

The federal government does not create the existence of an Indian tribe. Tribes exist and have existed since time immemorial. The federal acknowledgement process found at 25 C.F.R. Pt. 83 is simply intended to recognize those tribes in the United States that have existed since historical times as political and cultural groups, and to deny recognition to groups that have not. Unfortunately, the current federal acknowledgement process is in desperate need of reform. When this process fails, it constitutes a fundamental failure of the federal trust responsibility. The Department of the Interior has begun a project to improve the regulations. NCAI is urging that the amendment process move forward with full consultation with all affected tribes.

Despite the best intentions of those who created the recognition process, it is simply no longer working. It subjects tribes to unconscionably long delays and unreasonable documentary requests. It establishes a seemingly objective list of criteria but provides no guarantees of objectivity or fairness in the application of the criteria. The length of the process leaves tribes in limbo for decades, unable to provide services to their citizens.

While the acknowledgement process began in 1978 with a firm commitment to fairness and impartiality, the process has deteriorated over the decades since the regulations were adopted. The
process now fails even the simplest metric: timeliness. The process takes thirty years. Most troublingly, there are significant questions about the fairness and integrity of the process. In recent years, significant concerns have been raised among tribal nations and the public at large when actions during the acknowledgment process created the appearance of undue political influence.

**Administrative Update**

NCAI's position on federal acknowledgement remains virtually unchanged since its formative convention on the issue over thirty-five years ago. We continue to believe the central question in federal acknowledgement is whether the tribe has maintained tribal relations from historic times. At our most recent convention NCAI passed Resolution ATL-14-12, calling for the Administration to remove the third party veto from the proposed regulations.

On May 22, 2014, the Department of the Interior announced publication of proposed regulations to revise the federal acknowledgment process for Indian tribes. These proposed changes seek to make the process align with the policy laid out in the Indian Reorganization Act and to promote consistency and transparency for those seeking recognition. Proposed changes include streamlining the process by eliminating certain documentation such as the “letter of intent” to petition and no longer requiring review by the Interior Indian Board of Appeals. The proposed rule also includes streamlining the process through an expedited negative review if the application clearly fails to meet certain criteria and the possibility of an expedited positive review if the tribe has held a state recognized reservation since 1934, or possesses federal trust lands. Comments on the proposed rule were due on September 30, 2014. NCAI passed a resolution in general support of the draft regulations at the Annual Meeting in 2013, and submitted comments encouraging the Administration to move forward on the proposed regulations.

*For additional information, please contact John Dossett, General Counsel at 202.466.7767 or john_dossett@ncai.org*
NATIVE AMERICAN HOUSING
Housing is a core necessity for tribal communities. While tribes have made great strides toward improving housing conditions in their communities, the need for adequate, affordable housing for low-income Indian people persists. Native Americans still face some of the worst housing and living conditions in the United States. According to the U.S. Census Bureau’s 2006-2010 American Community Survey, there are an approximate 142,000 housing units in Indian Country, and those homes frequently lack utilities and basic infrastructure. The survey shows that approximately 8.6 percent lack complete plumbing facilities, 7.5 percent lack kitchen facilities, and 18.9 percent lack telephone service. Close to 30 percent of Indian homes rely on wood for their source of heat.

The Native American Housing and Self-Determination Act (NAHASDA) is the main authorization of tribal programs. Tribal programs under NAHASDA have been successful in allowing tribes the self-determination necessary to provide effective programs for tribal citizens. NAHASDA effectively replaced the various Indian housing programs under the 1937 Housing Act and consolidated federal housing funds through direct block grants to the tribes and their housing authorities. Tribes are now exercising their right to self-determination by designing and implementing their own housing and other community development infrastructure programs. 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. Since the enactment of NAHASDA in 1996, tribal housing programs have been making great strides for housing and community development by using sustainable building practices and leveraging their NAHASDA and other federal funding. Today there are close to 500 Tribally Designated Housing Entities in Indian Country.

Legislative Update
Reauthorization of NAHASDA. The current authorization of the Native American Housing Assistance and Self-Determination Act of 1996 expired on September 30, 2013. In the last session of Congress, bills were introduced in both the House and the Senate to reauthorize NAHASDA. NAHASDA reauthorization passed the House but stalled in the Senate at the end of the last Congress.

In the 114th Congress, Representative Pearce (D-NM) has introduced the Native American Housing Assistance and Self-Determination Act of 2015, H.R.360. This legislation is identical to the bill that passed the House last session. In the Senate, the Committee on Indian Affairs held a hearing titled, “Loan Levering in Indian Country.” That hearing focused on accessing capital for housing projects in Indian Country. To date, there is no NAHASDA reauthorization legislation in the Senate.

HUD-VASH. Another beneficial program to meet the needs of Native Veterans is the HUD-Veterans Affairs Supportive Housing Program (HUD-VASH). This program, jointly administered by both HUD and U.S. Department of Veterans Affairs program would address the needs of homeless veterans residing on tribal lands. The current HUD-VASH program does not allow for direct tribal participation.

NCAI urges this Congress to reauthorize NAHASDA and include HUD-VASH in this reauthorization.
Administrative Update
In January the Administration, through the Department of Interior published its proposed rule of 25 CFR Part 256 for the Housing Improvement Program (HIP). The proposed rule would make several changes to the regulation and administration of HIP. The comment period for comments on this regulation is open until March 30, 2015. NCAI urges tribes to submit comments on the proposed regulation changes, and the Department will hold a consultation during the NCAI’s Executive Council Winter Session.

For additional information, please contact Gwen Salt, Legislative Associate, at 202.466.7767 or gsalt@ncai.org

Tribal Transportation
According to the latest National Tribal Transportation Facility Inventory (NTTFI), there are approximately 160,000 miles of roads and trails in Indian Country owned and maintained by tribes, the Bureau of Indian Affairs (BIA), states and counties. Of those, Indian tribes own and maintain 13,650 miles of roads and trails, of which only 1,000 (or 7.3%) are paved—12,650 miles are gravel, earth, or primitive. These 12,650 miles of roadways are still among the most underdeveloped and unsafe road networks in the nation, even though they are the primary means of access to American Indian and Alaska Native communities by Native and non-Native residents and visitors alike. Of the 29,400 miles owned and maintained by the BIA, 75% of them are graveled, earth, or primitive. These roads are the primary means of travel for Native peoples across the nation, but they remain the most underdeveloped road system in the United States.

The current authorization, Moving Ahead for Progress in the 21st Century (MAP-21), administers highway, bridge, transit, and safety programs within the Department of Transportation. Particularly for tribes, MAP-21 comprises the Tribal Transportation Program (TTP) and Public Transportation Program on Indian Reservations (Section 5311 (c), also known as the Tribal Transit Program). Currently tribes receive $450 million for TTP for the construction and maintenance of highways, roads, and bridges; and $30 million for Public Transportation on Indian Reservations. This funding represents the majority of all funding available to tribes for development and maintenance of transit systems that serve tribal communities. Adequate funding is crucial to enable tribal governments to ensure that tribal transportation programs can provide for the economic and social well-being of their tribal members and members of the surrounding communities.

Legislative Update
Last year, the President signed P.L. 113-159, the Highway and Funding Act of 2014, which extends the current authorization of the MAP-21 until May 31, 2015. Congress is currently considering a multiyear transportation authorization, however the biggest challenge is how to pay for the authorization. Currently, the Highway Trust Fund, funded by the federal gas tax pays for the all the transportation programs including the Tribal Transportation Program, and Tribal Transit Program. Over the past two decades, the gasoline tax revenue generated in the Highway Trust Fund has steadily declined and Congress is seeking solutions to making the Trust Fund solvent in order to pay for a long term transportation bill.

Tribal Transportation Unity Act. NCAI supports the Tribal Transportation Unity Act (TTUA) via NCAI Resolution #ECWS14-006. The TTUA consists of various tribal transportation positions for
the upcoming transportation authorization. NCAI has shared the TTUA with Congressional Committees who have jurisdiction for transportation authorization.

**Bureau of Indian Affairs Road Maintenance Program.** Although the majority of transportation programs are authorized and funded through the Department of Transportation, there is one critical tribal transportation program located within the Bureau of Indian Affairs (BIA). This program, the BIA Road Maintenance program is responsible for maintaining approximately 29,400 miles for roads in Indian Country including 900 bridges. The funding for this program has steadily declined for several fiscal year cycles and is currently funded at $26 million for FY2015. The current cost to construct for Bureau of Indian Affair owned roads in Indian Country is approximately $81.6 million.

NCAI urges this Congress to include the TTUA in the upcoming transportation authorization and to adequately fund the BIA Road Maintenance program to address the deferred maintenance of $81.6 million.

**Administrative Update**

Last year, the Department of Interior, Bureau of Indian Affairs (BIA) announced a proposed rule for the Tribal Transportation Program in accordance with Moving Ahead for Progress in the 21st Century (MAP-21), the current transportation authorization. The proposed rule would revise and update the 25 CFR Part 170; make technical corrections in programs for tribal governments and Federal Highway Administration; and clarify the requirements for proposed roads and access roads to be added or remain on the National Tribal Transportation Facility Invent. The comments are due March 20, 2015.

NCAI urges tribes to submit comments for the Tribal Transportation Program.

*For additional information, please contact Gwen Salt, Legislative Associate, at 202.466.7767 or gsalt@ncai.org*

**TRIBAL TELECOMMUNICATIONS**

The U.S. continues to be a global leader in the technology and wireless industries. However, access to telecommunications infrastructure and services in rural and tribal lands continues to lag behind the nation overall. While various reports and data findings have highlighted an increase in access to telecommunications services, tribal lands still remain the least connected areas of the country. There are still significant barriers to tribal lands receiving this vital infrastructure and residents accessing it at affordable rates.

The primary law governing our telecommunications sector is the 1934 Communications Act, which was last amended in 1996 due to rapid advances in wireless and cable technologies. While the recognition of tribal sovereignty and requirements for tribal consultation were excluded from the original Act—and subsequent amendments in the 1996 Telecommunications Act—the Federal Communications Commission has exercised administrative flexibility to ensure tribal matters are addressed in its rulemakings. The 1996 amendments created six universal service principles to meet the goals of providing affordable and quality telecom services across the country.

To meet these mandated goals, the 1996 Telecommunications Act created the Universal Service Fund (USF) to provide financial subsidies and offset costs for the deployment of
telecommunications services, especially in rural areas and for low-income individuals. The USF is comprised of four programs—the Connect America Fund (formerly the High Cost Fund); the low-income (Lifeline/Link-Up) program; the Schools & Libraries (E-rate) program; and the Rural Health Care Program. The USF is not funded through the collection of taxes but instead through service fees collected from wireline and wireless phone companies and voice over internet protocol (VoIP) providers. While the Federal Communications Commission regulates the telecom industry and manages the USF, the USDA Rural Utilities Service predominantly funds deployment of the nation’s telecommunications infrastructure.

**Legislative Update**

*Updates to the Communications Act of 1934.* On December 3, 2013 the House Energy and Commerce Committee announced a multi-year plan to examine and update the Communications Act to reflect the Internet era. Since then, the Committee has released a series of white papers to solicit public comment and input to modernize the law governing the communications and technology sectors.

Soon after the beginning of the 114th Congress Chairman Thune of the Senate Commerce, Transportation & Science Committee has also expressed interest in updating the Communications Act due to the growing debate and discussion around Net Neutrality and the role of the Federal Communications Commission. In the event that Congress proceeds to introduce legislation to update the Communications Act, NCAI will advocate for inclusion of bill language that recognizes tribal sovereignty and codifies requirements for consultation between the Federal Communications Commission and tribal nations regarding telecommunications matters.

*Enact statutory authority for tribes to designate their own libraries.* Tribal “libraries” are usually located in multi-service buildings that provide programs and services to tribal members, which may not constitute a formal ‘stand-alone’ library or necessarily be attached to a primary or secondary education institution. When the 1996 Telecommunications Act passed it recognized the Library Services and Construction Act (LSCA), which provided tribes the ability to designate their own libraries. However, just months after passage of the '96 Telecom Act, the LSCA was rescinded and replaced by the Library Services and Technology Act (LSTA). Under the LSTA tribes must receive approval from a State Library Administrative Agency to designate a “library” as eligible for receiving funds for various library functions—including eligibility for participation in the E-rate program. NCAI will advocate for Congress to amend the LSTA by removing the requirement that tribal libraries must be designated by State Library Administrative Agencies, and instead restore them to being treated as agencies of sovereign tribal nations.

*Continue Funding the FCC Office of Native Affairs and Policy for Consultation with Tribal Nations.* To ensure the FCC’s commitment to consult with tribal nations is preserved and exercised. FCC-ONAP is charged with consulting with tribal nations on behalf of the entire agency, and working with FCC Commissioners, Bureaus, and Offices for the development and implementation of policies benefiting tribal nations. NCAI will continue to work with Congress to ensure that funding of no less than $300,000 for consultation purposes at the FCC through its Office of Native Affairs and Policy.

*Elevate the FCC Office of Native Affairs and Policy to a Stand-Alone Office Position.* The FCC has already established a procedural framework for stand-alone offices, such as the Office of General Counsel and Office of Engineering and Technology to name a couple. These offices were created to directly
advise the FCC Chair and Commissioners as specific subject matter experts. When the FCC Office of Native Affairs was established (FCC-ONAP), it was placed under the Intergovernmental Affairs Bureau with the intent to report to, and work directly with the FCC Chair and across the Bureaus and Offices at the Commission. NCAI will continue to work with Congress to elevate FCC-ONAP to operate as a stand-alone office. This will ensure that it has the unfettered access needed to address tribal concerns and advise the FCC Chair, Commissioners, and the Commission’s Bureaus and Offices on all tribal matters.

**Administrative Update**

*Consult with tribal nations to preserve and, or expand funds for high cost areas.* In December 2014, the FCC released a Report and Order to reform the High Cost Loop Support (HCLS) program and froze the National Average Cost per Loop (NACPL) mechanism. The Commission ruled the NACPL freeze necessary in an effort to ensure an equitable distribution of subsidies to support next-generation broadband deployment to high cost areas. However, the NACPL freeze and the effects it could have on the vital subsidies needed to off-set high costs in deploying to tribal lands was not given proper consideration prior to the Commission’s ruling. NCAI will be filing a Petition for Reconsideration regarding the ruling to freeze NACPL on the grounds that the FCC failed to engage in tribal consultation to determine these effects on tribal and non-tribal carriers serving tribal lands prior its ruling.

*Establish a “Tribal Priority” for E-rate Funding.* Although there is limited data on tribal participation in the E-rate program, what data exists from the Bureau of Indian Education and the Association of Tribal Archives, Libraries, and Museums has illustrated disparities to tribal schools and libraries participating in the program. Establishing a “Tribal Priority” to E-rate funding should provide targeted funding for tribal schools and libraries that are unserved or underserved by broadband services. This “Tribal Priority” should also provide funding for internal connections, necessary computer software, network architecture design, development of technology plans, and end-user equipment and training for teachers and library staff. As President Obama and the Administration has announced numerous Native youth and education initiatives, NCAI will continue advocating for an E-rate tribal priority to connect our schools and libraries to next-generation technologies and services.

For additional information, please contact Brian Howard, Legislative Associate, at 202.466.7767 or bhoward@ncai.org
**APPROPRIATIONS**

**President’s Budget**

Effective tribal government, with all the necessary tools and resources to address the public service needs of their people, represents a key component for any balanced tribal nation. The trust relationship in the 21st Century must maintain the nation-to-nation treaty obligations, such as the provision of education, public safety, health care and more, while promoting tribal capacity and governance. The tribal leaders and administrators throughout Indian Country seek the same outcomes as other national leaders: to protect the health, safety, and prosperity of the populace they serve. Tribal leaders are addressing urgent societal challenges, often with inadequate resources, but still facing expectations from their people for safe communities, educational opportunities, health care, clean air and water, and economic growth. Effective tribal governments that can meet the essential needs of their citizens require the fulfillment of the modern federal trust responsibility as well as respect for tribal self-determination.

Legislative Update

*Overall Budget Request:* The President released his FY 2016 budget on February 2, 2015. The Administration proposes to do away with the sequester established under the 2011 deficit law (PL 112-25) by reducing the deficit $1.8 trillion over the next 10 years, a request similar to ones made in previous budgets. The President’s budget would increase discretionary spending in FY 2016 by seven percent, or $75 billion, split evenly between defense and non-defense programs; yet, adjusted for inflation, non-defense appropriations would be 11 percent below their FY 2010 level overall. The sequester will remain in effect for FY 2016 if Congress does not adhere to the defense and nondefense spending caps or pass a law to adjust the across-the-board cuts. The Administration’s sequester replacement would cut mandatory and discretionary programs by $600 billion over 10 years, with about 70 percent of the savings coming from health overhaul proposals.

*Take Action:* The President’s FY16 Budget includes many new proposals and requested increases for Indian programs. In the coming weeks, the President’s budget will be reviewed by Congress, and appropriations committees will begin holding hearings on the proposals. Overall, tribes have a significant opportunity to increase appropriations for Indian programs this year, and we urge tribal leaders to support tribal budget requests with direct communication to the Appropriations Committee and Subcommittee leadership and members in both the House and Senate. While the Interior Appropriations Subcommittees remain important, NCAI encourages tribes to send testimony on the Department of Justice budget, which is handled by the Commerce-Justice-Science and Related Agencies subcommittees in both chambers, the Health and Human Services (HHS) budget handled by the Labor-HHS-Education Appropriations Subcommittee, Housing and Urban Development budget in the Transportation-Housing Subcommittees, and energy programs in the Energy-Water subcommittees, for instance. Look up deadlines to submit testimony on the House side at [http://appropriations.house.gov/](http://appropriations.house.gov/). The Senate will announce deadlines soon as well at [http://www.appropriations.senate.gov/](http://www.appropriations.senate.gov/).

Significant proposals in the President’s FY 2016 Budget include:

- **Mandatory Contract Support Costs:** The FY2016 budget includes a legislative proposal to reclassify contract support costs as permanent funding beginning in FY 2017. NCAI and tribes have called for this in [resolutions](http://www.ncai.org/ncai/resolutions) across Indian Country and in NCAI’s tribal budget requests. The
FY 2016 request also will fully fund contract support costs, based on the most recent BIA and IHS analysis.

- **Generation Indigenous** is an initiative in the budget to address Native youth Issues. The Generation Indigenous, or "Gen-I", initiative takes a comprehensive approach to help improve the lives of and opportunities for Native youth. The initiative crosses multiple agencies, including the Departments of the Interior, Education (ED), Housing and Urban Development (HUD), Health and Human Services (HHS), Agriculture (USDA), Labor (DOL) and Justice (DOJ). Increases include: (1) $34.2 million at DOI to extend broadband internet and computer access to all BIE-funded schools and dormitories; (2) $10 million at HUD and $8 million at DOI to address teacher housing needs; (3) $50 million at HHS to provide youth-focused behavioral, mental health, and substance abuse services; and (4) $53 million for Native Youth Community Projects at ED to support comprehensive strategies to improve college and career-readiness of Native youth.

- **Significant Increases**: the budget proposes an overall increase of **12 percent for BIA** over the FY 2015 enacted level, the largest increase in more than a decade (excluding Recovery Act funding). The **Indian Health Service** would receive a **nine percent increase**.

- Acknowledging the important role BIA plays as a broad provider of Federal services, the President’s budget proposes $4.0 million to establish the **One-Stop Tribal Support Center** to support Tribes in accessing hundreds of services across the Federal government.

- The FY 2016 budget includes $4.5 million to establish an **Indian Energy Service Center** to facilitate vital energy development in Indian Country.

- In the BIA, a **data initiative** of $12.0 million is proposed to establish an Office of Indian Affairs Policy, Program Evaluation, and Data which will help the Interior Department collect, analyze, and use evidence to support effective policy making and program implementation. The funds also will assist the Department in working with Tribes to improve Interior and BIA data quality and availability and will support efforts with the Census Bureau to identify and address data gaps in Indian Country.

- The BIA budget builds on the **Tiwahe (Family) Initiative**: a comprehensive and integrated approach to address the inter-related problems of poverty, violence, and substance abuse faced by Indian communities. The FY16 budget would provide $15 million to expand the Tiwahe Initiative, $6 million more for Social Services, $4 million more for law enforcement for alternatives to incarceration, and $5 million more for aid to tribal family courts.

- The HHS **Tribal Behavioral Health Grant (TBHG)** program would receive $30 million, including $15 million in the Mental Health appropriation and $15 million in the Substance Abuse Prevention appropriation as part of **Generation Indigenous**.

- **Public Safety**: The budget includes $417.4 million for the Department of Justice (DOJ) public safety initiatives in Indian Country, which is a $102 million increase compared to the FY 2015 DOJ enacted total for Indian Country.

- **Tax provisions**: Treasury includes a proposal to exclude from income **student loan forgiveness and certain scholarship amounts** for participation in the IHS health professions program; a modification of the **adoption tax credit** to allow Indian Tribal Governments to make a status determination of a “child with special needs”; modifications of **Tax Exempt Bonds for Indian Tribal Governments** that include the repeal of the “essential government function” for tax exempt bond financing, and new flexibility for Tribal Economic Development Bonds.
Carcieri: Language to address the Carcieri Supreme Court decision is again included in the Department of Interior general provisions of the President’s budget. (Interior Appendix, Budget of the United States Government, Fiscal Year 2016, p. 716)

For more information, refer to the comprehensive budget analysis in the NCAI packets.

Administrative Update

- The Tribal Interior Budget Council will hold its National Budget Meeting on the Indian Affairs budget on March 5-6, 2015 at the Washington Plaza Hotel in Washington, DC.
- The Department of Health and Human Services will hold its 17th Annual Tribal Budget and Policy Consultation on February 25 and 26 at the Hubert H. Humphrey Building in Washington, DC.
- Contract Support Costs Listening Session, 9:00 am – Noon in the Congressional Room, Capitol Hilton, February 23. The President’s budget proposal includes a recommendation that the Department and the Department of Health and Human Services (HHS) fund contract support costs (CSC) as a mandatory appropriation. Representatives from both the Department and the Indian Health Service would like to discuss this proposal with tribal leadership during the Executive Council Winter Session (ECWS).

For additional information, please contact Amber Ebarb, Budget/Policy Analyst, at 202.466.7767 or aebarb@ncai.org

**CONTRACT SUPPORT COSTS**

Under the Indian Self-Determination Act, the United States enters into inter-governmental contracts with tribes under which tribes administer federal programs, either through contracts or self-governance compacts, for the benefit of tribal members. In amending the 1975 Act, Congress in 1988 observed that the single greatest impediment to successful implementation of the Indian Self-Determination Policy was the consistent failure of the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) to pay full contract support costs associated with the administration of transferred programs.

Legislative Update

In the FY 2016 President’s Budget, the Administration proposed to move funding for contract support costs (CSC) from discretionary agency appropriations, where CSC competes with program funding, to a separate mandatory appropriation. For a three-year period beginning in FY 2017, CSC would be reclassified to mandatory funding, with specified amounts as follows:

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<tr>
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<th>FY 2016 (discretionary)</th>
<th>FY 2017 (mandatory)</th>
<th>FY 2018 (mandatory)</th>
<th>FY 2019 (mandatory)</th>
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<td>IHS</td>
<td>$718 million ($55 million over FY 15)</td>
<td>$800 million</td>
<td>$925 million</td>
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<tr>
<td>BIA</td>
<td>$277 million ($26 million over FY15)</td>
<td>$307 million</td>
<td>$322 million</td>
<td>$338 million</td>
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Unspent amounts in the mandatory years would carry forward to the next year. Up to 2 percent of the appropriated amounts in FYs 2017-2019 would be available to the agencies to build capacity to administer the mandatory appropriations and implement the full-funding policy.
Reasons to Support the Proposal: In 2014, after Congress called for consultation on “long-term solutions” to CSC issues, a tribal white paper proposed that Congress establish CSC as a permanent, indefinite appropriation like other legal entitlements. In NCAI Resolution #ANC-14-003, NCAI supported that proposal. Although the Administration’s mandatory appropriation would be neither permanent nor indefinite, it would achieve, at least for three years, the main goals sought by tribes:

- Ensure that fluctuating CSC requirements would not reduce program funding, as happened in FY 2014 when IHS had to reprogram over $35 million;
- Restore parity between direct service tribes and those contracting and compacting under the Indian Self-Determination and Education Assistance Act;
- Resolve the contradiction between the mandatory nature of CSC obligations and the discretionary nature of the current CSC appropriation.
- Set the stage for subsequent legislation extending or lifting the term limit of the mandatory appropriation.

NCAI urges tribes to strongly support the proposal, with the qualification that it should be implemented in FY 2016 following expedited consultation. A Contract Support Costs Listening Session will be held in the Congressional Room 9:00 am – Noon at the Capital Hilton, February 23, 2015 to discuss the President's budget proposal. Representatives from both the Department and the Indian Health Service would like to discuss this proposal with tribal leadership.

For additional information, please contact Amber Ebarb, Budget/Policy Analyst, at 202.466.7767 or aebarb@ncai.org
2014 WORLD CONFERENCE ON INDIGENOUS PEOPLES

On September 22-23, 2014, the United Nations (UN) hosted the World Conference on Indigenous Peoples (WCIP). The WCIP included over 1,000 indigenous representatives from all over the world, as well as all 193 UN member countries. The purpose of the WCIP was for members of the UN and indigenous peoples to discuss implementation of the Declaration on the Rights of Indigenous Peoples.

Leading up to the World Conference, NCAI joined with a large group of American Indian and Alaska Native tribes, inter-tribal associations, and non-profit organizations to advocate for four priorities at the World Conference. These priorities were:

1. establishing an appropriate status for Indigenous governments at the UN;
2. creating a UN mechanism to monitor and promote implementation of the Declaration;
3. adopting measures to prevent violence against Indigenous women and children; and
4. protecting sacred places and objects

During the opening session of the WCIP, the UN General Assembly adopted an Outcome Document that provides for concrete and action-oriented measures to implement and achieve the objectives of the United Nations Declaration on the Rights of Indigenous Peoples. While we did not get everything we were asking for, the Outcome Document does address all 4 of our priorities in one form or another. It is crucial that we maintain this momentum to make sure that the decisions of the World Conference are fully implemented, and begin to realize the promise of the UN Declaration on the Rights of Indigenous Peoples.

Indigenous peoples and tribal leaders need to be directly involved in the follow-up work to see that the details of these decisions are worked out in a way that will be of meaningful use to tribes and others. In fact, the Outcome Document requires indigenous consultation throughout this process, and indigenous leaders and experts need to be heard directly. Much of the work to implement the WCIP Outcome Document will happen in the next eight months in several UN bodies in New York and Geneva, Switzerland. It is critical that tribal leadership be involved and represented along the way.

There are a number of opportunities for leaders to directly engage with countries and the UN in the coming months. Along with the meetings listed below, there will be a number of informal meetings with countries and other UN actors.

1. **February 26.** The United States Department of State will hold a consultation on follow-up work to the World Conference at the Capital Hilton Hotel, 1001 16th Street, NW, Washington, DC.
2. **March 3-5.** Open-ended meeting of indigenous peoples on the follow-up to the World Conference. This meeting will occur in conjunction with meetings of the Human Rights Council in Geneva, Switzerland.
3. **March 9-20.** UN Commission on the Status of Women at UN Headquarters, New York.
4. **April 20-May 1.** UN Permanent Forum on Indigenous Peoples at UN Headquarters, New York. There will be a discussion of the World Conference follow-up on April 20, 3pm-6pm. Registration will open soon and be available online.


If you can represent your nation or tribe and participate in one or more of the meetings above, please let us know. We are available to assist in any way we can.

If you would like to receive additional information about these and other meetings, please email Virginia Davis, vdavis@ncai.org
YOUTH - GENERATION INDIGENOUS

President Obama has launched Generation Indigenous (Gen-I), a youth initiative focused on removing the barriers that stand between Native youth and their opportunity to succeed. The Gen-I initiative is intended to take a comprehensive, culturally appropriate approach to help improve the lives of Native youth by creating policies and programs that will help Native youth succeed.

As part of this initiative, the White House released its Native Youth Report at the White House Tribal Nations Conference in December of 2014. This report acknowledges past failures of federal policy on the education of Native students, recognizes the challenges facing Native youth and makes recommendations for moving forward to address these challenges.

In addition, the Administration has launched the Cabinet Native Youth Listening Tour so that Cabinet officials can hear directly from Native youth on how effective federal policies can improve youth outcomes. The Administration is also focused on expanding federal outreach on youth internships and employment opportunities across federal agencies. This summer, the White House will hold a White House Youth gathering that will engage hundreds of Native youth in a day-long convening.

For additional information, please contact Denise Desiderio or Jamie Gomez at 202.466.7767 or ddesiderio@ncai.org or jgomez@ncai.org

MY BROTHER’S KEEPER

As part of the White House’s “My Brother’s Keeper” Initiative announced earlier this year, NCAI launched the Native American My Brother’s Keeper Task Force, headed by NCAI President Brian Cladoosby and joined by partner organizations: the Center for Native American Youth, the Native American Boys and Girls Clubs of America, the National Indian Child Welfare Association, the National Indian Education Association, American Indian Higher Education Consortium, and UNITY, Inc. The task force will coordinate and serve as the central point for sharing important work, opportunities, and resources for Native youth in tribal communities across Indian Country.

Last Fall, the White House announced the launching of the “My Brother’s Keeper Community Challenge” to encourage communities (including tribal nations) to implement a coherent cradle-to-college and career strategy aimed at improving life outcomes for all young people. The Challenge is not a new federal program, but rather a call to action for leaders of communities across the Nation to build and execute comprehensive strategies that aim to improve the life outcomes of all young people. Several tribal nations joined the Community Challenge.

NCAI will continue to participate in the “My Brother’s Keeper” Initiative as well as other youth initiatives.

For additional information, please contact Denise Desiderio or Jamie Gomez at 202.466.7767 or ddesiderio@ncai.org or jgomez@ncai.org
WHITE HOUSE COUNCIL ON NATIVE AMERICAN AFFAIRS

On September 30, 2014, Secretary Jewell convened the fourth meeting of the White House Council on Native Affairs. At that meeting, Cabinet officials focused on: reform of the Bureau of Indian Education, promoting sustainable tribal economic development; and supporting sustainable management of Native lands, environments and natural resources.

President Obama established by Council by Executive Order on June 26, 2013, and the inaugural meeting was held on July 29, 2013. The Council, which includes more than 30 federal departments and agencies, coordinates the Administration’s engagement with tribal governments and works across executive departments, agencies and offices to develop policy recommendations and expand efforts to leverage federal programs and resources available to tribal communities.

The Executive Order establishing the Council also institutionalized the White House Tribal Nations Conference as an annual event. The White House Conference brings together tribal leaders from all federally recognized tribes with Cabinet members and senior Administration officials. This year’s White House Conference was held on December 3, 2014.

For additional information, please contact Denise Desiderio or Jamie Gomez at 202.466.7767 or ddesiderio@ncai.org or jgomez@ncai.org