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INDIAN
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Coeur d' Alene Tribe
Colville Tribe
Coos, Suislaw &
Lower Umpqua Tribe
Coquille Tribe
Cow Creek Tribe
Cowlitz Tribe
Grand Ronde Tribe
Hoh Tribe
Jamestown S'Klallam Tribe
Kalispel Tribe
Klamath Tribe
Kootenai Tribe
Lower Elwha Tribe
Lummi Tribe
Makah Tribe
Muckleshoot Tribe
Nez Perce Tribe
Nisqually Tribe
Nooksack Tribe
NW Band of Shoshone Tribe
Port Gamble S'Klallam Tribe
Puyallup Tribe
Quileute Tribe
Quinault Tribe
Samish Indian Nation
Sauk-Suiattle Tribe
Shoalwater Bay Tribe
Shoshone-Bannock Tribe
Siletz Tribe
Skokomish Tribe
Snoqualmie Tribe
Spokane Tribe
Squaxin Island Tribe
Stillaguamish Tribe
Suquamish Tribe
Swinomish Tribe
Tulalip Tribe
Umatilla Tribe
Upper Skagit Tribe
Warm Springs Tribe
Yakama Nation

DATE: March 15, 2012
TO: Tribal Leaders, Health Directors and NPAIHB Delegates
FROM: Jim Roberts, Policy Analyst 
SUBJECT: NCAI Materials

The National Congress of American Indians (NCAI) conducted their Executive Council Winter Session last week in Washington, DC. In follow-up from that meeting, I am including selected items from their conference packets that include:

- Legislative and Regulatory Update
- NCAI Analysis of the President's FY 2013 Budget Request
- NCAI Policy Research Center Materials

I tried to locate electronic copies of these items on the NCAI website but could not find, so am providing here. I hope they are helpful to you.

Please contact me if you should have any questions at (503) 228-4185; or by email at jroberts@npaihb.org.

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NATIONAL CONGRESS OF AMERICAN INDIANS

Executive Council Winter Session – March 6-8, 2012

LEGISLATIVE AND REGULATORY UPDATE

Brief Overview

Defying political headwinds, Indian tribes are having an active legislative effort in Congress this year. A divided Congress, rising federal deficits, and an upcoming Presidential election would typically mean that little can be accomplished. However, Indian tribes have a significant number of bills under serious consideration this year that would increase tribal self-determination, and most of them have bi-partisan support and relatively low costs or no costs. While election year politics can scuttle the best laid plans, it is likely that Indian tribes can have a successful legislative year if we get our work done early. Election years often include a “lame duck” session at the end of the year, but this can also be a productive session if we lay the groundwork now.

The top issues for Indian tribes continue to be protecting the federal budget for Indian programs, restoring tribal lands through the “Carcieri Fix,” and protecting Native women and families through the reauthorization of the Violence Against Women Act. In a historic vote, the Senate Judiciary Committee on February 2, 2012 passed a new version of the Violence Against Women Act that includes the restoration of tribal criminal jurisdiction over all persons who commit acts of domestic violence, dating violence, of violations of protection orders on reservations. This is a step in the legislative process, but it was politically inconceivable only a few years ago. Tribes are reaching new high marks in advancing tribal sovereignty, but much more work awaits tribal leaders in educating Congress on these major issues.

At the same time, committees in Congress continue to work on important national legislation that will likely be considered in the near future. For example, the Farm bill, as well as the Education and Transportation reauthorizations, are all under development, and tribal governments have strong interests in these pieces of legislation. Now is the time to make sure tribal priorities are included. The NCAI Analysis of the President’s budget and the appropriations process is included as a separate document.

NCAI and tribal leaders continue to work with the Administration on a variety of issues, including taxation, land to trust, leasing, land consolidation, law enforcement, health care implementation, and economic development. Many tribal priorities are identified below. All legislative bills and any accompanying reports may be downloaded at <http://thomas.loc.gov>.

General Updates

CARCIERI “FIX”

In February of 2009, the Supreme Court issued its decision in *Carcieri v. Salazar*, which interpreted Section 19 of the Indian Reorganization Act (IRA). The Court held that the phrase

“now under federal jurisdiction” within the definition of “Indian” limits the Secretary of Interior’s ability to acquire land in trust for only those Indian tribes who were “under federal jurisdiction” in 1934. Indian tribes throughout the country have strongly disagreed with the opinion as contrary to longstanding interpretation by the Interior Department and because it creates uncertainty and risk of litigation for many tribes. Disorder in this area of the law will negatively affect jobs and economic development, contracts and loans, tribal reservations and lands, and could negatively affect tribal and federal jurisdiction, public safety, and provision of services on reservations across the country.

NCAI has been working with a broad coalition of tribal leaders and tribal organizations to support the *Carcieri* "fix" and prevent chaos in a wide range of Indian land determinations. Because of tribal leaders’ efforts, the *Carcieri* fix legislation passed the House of Representatives as a part of a spending package near the end of 2010, but it was not included in the Senate version that ultimately passed.

This session of Congress, the legislation is currently pending in both the Senate and the House. The Senate version is S. 676 and it is identical to last year’s bill. The bill has also been added to S. 703, the HEARTH Act (see below) in a Senate Committee on Indian Affairs mark up. In the House of Representatives there are two different versions. H.R. 1291 is sponsored by Representative Tom Cole, and it would clarify the IRA provision, but also specifically prohibit the Secretary from taking land into trust in Alaska. H.R. 1234 is sponsored by Representative Dale Kildee, and it does not contain the Alaska-specific provision. NCAI encourages all tribes to maintain their strong efforts to pass the *Carcieri* Fix legislation this year.

HEARTH - "HELPING EXPEDITE AND ADVANCE RESPONSIBLE TRIBAL HOMEOWNERSHIP"

The above bill (H.R. 205 and S. 703) would amend the Indian Long-Term Leasing Act of 1955 to authorize surface leasing of tribal lands without approval from the Secretary of the Interior. Instead, tribal leases could be approved by the tribe under tribal leasing regulations, which would be approved by the Secretary. The legislation supports tribal self-determination and will enable tribes to move much more quickly on leasing and economic development, while maintaining the Secretary’s trust responsibility to oversee trust lands. The Senate Committee on Indian Affairs and the House Natural Resources Committee have both marked up the legislation favorably. NCAI encourages all tribes to contact their Congressional delegation and urge that the HEARTH Act be moved to a floor vote in both the House and the Senate.

GAMING – ONLINE POKER AND INTERNET

Several bills for licensing internet gambling were introduced last year in the House of Representatives (H.R. 1174, H.R. 2366, H.R. 2702). In addition, hearings have been held in the House Financial Services Committee and in the Senate Committee on Indian Affairs. Given the potential impact of online gaming on traditional brick and mortar gaming facilities and the potential erosion of sovereignty through a new regulatory scheme, it is important that tribes be at the table as the legislation is considered. The National Indian Gaming Association has developed a set of principles for protection of tribal sovereignty in any internet gaming legislation that were approved in NCAI Resolution PDX-11-042.

On a related front, in December the Justice Department announced that it had changed its position on the applicability of the federal Wire Act to internet gaming. Instead of a bar to all forms of internet gaming, the Department stated that the “Wire Act only applies to the transmission of bets or information assisting in the placing of bets or wagers relating to sporting events or contests.” It does not, according to the Department, apply to other forms of online gaming, such as lottery games. The immediate result of this new interpretation of the Wire Act is likely to be a push by state lotteries across the country to begin offering games online. In addition, some states are considering legislation to allow commercial entities to offer games online. As a result, it is likely that Indian tribes may be forced to address internet gaming issues at the state level rather than the federal level.

TAX INITIATIVE

NCAI, in collaboration with the California Association of Tribal Governments, the Affiliated Tribes of Northwest Indians, the United South and Eastern Tribes, and the Native American Finance Officers Association, continues to advocate for, and assist in developing a tribal tax policy with promotes greater self-governance through increased recognition of tribal sovereignty.

NCAI’s current tax initiative addresses:

- 1) IRS taxation of social programs and benefits provided by tribal governments to their citizens;
- 2) Restrictive policies governing tribal tax-exempt bond financing;
- 3) PACT Act/STOP Act tobacco compliance issues; and
- 4) State taxation of permanent improvements on tribal trust land

The following is a brief update on each focus area:

IRS taxation of social programs and benefits provided by tribal governments to their citizens

Programs provided by tribal governments have encountered scrutiny in recent years during IRS field audits. In particular, benefits provided to tribal members have been treated as taxable income by IRS field agents, even where tribal benefits seek to supplement the federal government’s trust responsibility or clearly fall within an Indian tribe’s right to self-government and to provide programs for the social welfare of tribal citizens.

In 2009, within an amendment to the America’s Healthy Future Act, tribal leaders pushed for and were successful in implementing an exclusion from the taxation of healthcare benefits provided to tribal citizens. While this exemption marked a favorable change in tax policy towards tribal governments, tribal leaders were clear that further change in the IRS’ tax policy was needed.

This past year, the Intertribal Tax Initiative focused on developing a strong working relationship with key policy makers in both the U.S. Department of the Treasury and the IRS. Through various meetings and outreach efforts, Indian Country was able to spur federal consultation with Indian tribes on this matter.

Currently, the IRS is seeking comments on how tribal programs should be treated under the IRS’ *general welfare doctrine* – a doctrine which exempts, from taxable income, benefits received from legislatively provided programs for the social ‘needs’ of the community. NCAI, along with

CATG, USET, ATNI and NAFO, is currently preparing public comments on this important matter. Among the basic concerns expressed thus far is the principle that tribal governments, as sovereigns, are best-suited to decide what constitutes ‘need’ within their respective communities; not IRS field agents. Also, within that principle, tribal ‘need’ is not limited to financial need, and in many circumstances might include traditional/cultural needs, or education needs, which exist regardless of the broad financial stability within the tribal community. Any future guidance adopted by IRS field agents should include this principle.

Public comments are due March 14, 2012 and will be publicly available for interested persons at that time. NCAI will continue to engage federal policy makers on this matter.

Restrictive policies governing tribal tax-exempt bond financing

Currently, legislation limits Indian tribes’ ability to utilize tax-exempt bond financing. Under the current standard, tribal uses are limited to only those projects which meet an ‘essential government function’ threshold, *i.e.*, the project must have no commercial component (*e.g.*, schools, hospitals, or road construction and/or repair). In stark contrast, states and local governments routinely use tax-exempt financing to develop marinas, golf courses, and conventional centers.

In 2009, in recognition of this disparity, Congress included a Tribal Economic Development (TED) Bond provision within the American Recovery and Reinvestment Act (ARRA). This provision allocates \$2 billion for TED Bond issuances on par with states and local governments. To date, much of this allocation remains unused for a variety of reasons, including: enactment of the provision during a severe economic downturn; the unwillingness, or inability, of banks and investment firms to lend; and Indian tribes’ historic inexperience in accessing traditional bond markets. However, tribes that have used TED Bonds are able to expand their finance portfolio to include another development tool to help revitalize tribal economies.

Also under ARRA, Treasury was tasked with submitting a report to Congress on the outcomes of the TED Bond provision. Treasury recently completed and submitted this report to Congress. The report makes several favorable recommendations, including the elimination of the stringent ‘essential government function’ analysis in favor of the more liberal standard enjoyed by states and local governments, as well as the expansion of tribes’ authority to issue Private Activity Bonds (PABs) on more equal footing with states and local governments.¹

NCAI will advance the favorable provisions within the Treasury report, as well as other critical tax provisions, in a comprehensive tribal tax parity bill in the near future. During this process, it will be critical that tribal leaders reach out to their representatives and friends in Congress to help promote tribal tax parity.

¹ Currently, tribes may only issue PABs to help finance manufacturing facilities. States and local governments on the other hand, may issue PABs to finance projects such as: airports, docks and wharves, mass commuting facilities, facilities for the local furnishing of electric energy or gas, qualified student loan bonds, as well as a variety of other projects which qualify under § 141(e) of the Internal Revenue Code.

PACT Act/STOP Act tobacco compliance issues

NCAI, along with members of the Intertribal Tax Initiative and the Native Tobacco Trade Association (NTTA), recently submitted comments on the DOJ's interpretation of the Prevent All Cigarette Trafficking (PACT) Act in a manner which infringes on tribal sovereignty and rights to self-governance. While tobacco trade only contributes to the economies of certain tribes, DOJ's interpretation of the PACT Act, which includes a complete disregard for tribal business licensing authority, substantially undermines long standing concepts in federal Indian law and seek to further place tribal regulatory authority within the hands of the state.

For these reasons, the Intertribal Tax Initiative was able to unify Indian Country in support of DOJ policy which is more aligned with federal Indian law, while recognizing Indian tribes' inherent right to regulate commerce and trade within tribal lands, free from state infringement.

Recently however, members of Congress have sought to introduce the Smuggled Tobacco Prevention (STOP) Act (H.R. 3186/S. 1706) within pending legislation. The STOP Act, if enacted, would potentially upset existing tobacco tax compacts and agreements between Indian tribes and states, while creating a federal and state cooperative system for tracking state tobacco taxes through the supply chain. In essence, tribal tobacco distributors, which have long been recognized to retain tax-exempt status in certain instances, would be unable to distribute their products within the stream of commerce.

NCAI continues to track developments on this matter and will be reaching out to tribal leaders for their support on this matter as new opportunities for advocacy present themselves.

State taxation of permanent improvements on tribal trust land

The last focus area under NCAI's current tax initiative is the state taxation of improvements to tribal trust lands. Federal law prohibits the taxation of tribal trust land. However, states have been assessing ad valorem taxes on the non-Indian interests of improvements made to tribal trust lands. For instance, if a tribe seeks to develop a wind farm and decides to partner with a non-Indian entity for finance purposes, the state has been assessing a tax on the non-Indian interest of a wind turbine, as an example. The result is that tribes continue to serve the taxing interests of adjacent states, while sacrificing critical economic development opportunities, such as developing natural energy resources into viable, profitable, tribal resources.

In recognition of this matter, the Bureau of Indian Affairs (BIA) has published Draft Part 162 Regulations, which split the non-agricultural leases under current regulations into the following subparts: business leases, residential leases, and leases for wind and solar development.

Within the proposed regulations, there are provisions which seek to convey improvements to tribal trust lands made under Part 162 to the Indian tribe for the duration of the lease, stating that "[a]ny permanent improvements on the leased land . . . shall not be subject to any fee, tax, levy, or other such charge imposed by any State or political subdivision of a State."² The proposed regulations are generally favorable because they streamline the leasing process and create

² Draft - BIA Surface Leasing Regulations, Part 162.415, *Federal Register*, Vol. 76, November 29, 2011, No. 229, available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-11-29/html/2011-29991.htm>.

timelines for BIA to approve various leases on tribal surface land. But the tax implications of the Draft Part 162 Regulations are only the first step in addressing this matter.

NCAI has followed up with BIA officials to request the BIA take a more active role in protecting Indian tribes from state taxation, such as stepping in where a state is attempting to tax tribal interests and making it known that principles of tribal sovereignty and self-governance preempt any state tax on improvements to tribal lands.

SELF GOVERNANCE ACT AMENDMENTS

Last year, Rep. Dan Boren (D-OK), introduced the *Department of the Interior Tribal Self-Governance Act of 2010* (H.R. 2444), legislation that will make comprehensive amendments to Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA), governing self-governance compacts and funding agreements with the Bureau of Indian Affairs and other agencies/bureaus under the Department of the Interior. The purpose of the bill is to enhance tribal self-governance by, among other things, making the DOI self-governance program consistent with its Indian Health Service counterpart in Title V.

The House Natural Resources Committee held a hearing on the bill in September and H.R. 2444 has the complete support of the Administration. Passage in the House will set stage for the bill to be introduced and passed in the Senate. Passage of the legislation will mark an important milestone in the ten-year-tribal effort to seek enactment of this important legislation.

ENERGY

Tribal energy bills have been introduced in each chamber of congress and both the Senate Committee on Indian Affairs and the House Subcommittee for Indian and Alaska Native Affairs held tribal energy hearings in February.

The House hearing on February 15th, 2012 addressed the Native American Energy Act (H.R. 3973) that Representative Young introduced on February 7, 2012. Witnesses included tribal leaders who exhibited strong support for H.R. 3973. The Senate tribal energy oversight hearing on February 16th, 2011 broadly investigated tribal energy development, including agency and tribal leaders as witnesses. A legislative hearing for Senator Barrasso's Indian Tribal Energy Development and Self-Determination Act Amendments of 2011 (S. 1684) is expected for March 2012. In both hearings, witnesses also described how tribal energy development would benefit from federal legislation to fix Carcieri as well as federal legislation to assert tribal taxation authority over tribal energy development.

Senator Barrasso, Vice Chair of the Senate Committee on Indian Affairs, introduced S.1684 in October 2011, with co-sponsors Senators Akaka (HI), McCain (AZ), Thune (SD) and Hoeven (ND). By clarifying specifications for tribal energy resource agreement (TERA) approval and implementation, Senator Barrasso's bill seeks to make the TERA process established by the Energy Policy Act 2005 usable for tribes. TERAs enable tribes to enter into leases and business agreements, and grant rights of way to develop energy resources without the approval of Secretary of Interior. S. 1684 also authorizes the creation of Tribal Energy Development Organizations (TEDOs) as an alternative route of reduced secretarial approval for leasing, business agreements and rights of way. S. 1684 also: 1) provides tribes the same status as states

and municipalities in the issuance of preliminary permits or original licenses where no preliminary permit has been issued for hydropower development; 2) creates a program for biomass demonstration projects; and 3) enables tribes to more easily access funding under DOE's Weatherization Program.

H.R. 3973 removes regulatory hurdles to tribal energy development that are not addressed in S. 1684. By creating restrictions on environmental review processes and removing Application for Permit to Drill (APD) fees on tribal lands, H.R. 3973 aids tribes in attracting investment to develop their energy resources by removing costly barriers. H.R. 3973 authorizes the creation of Indian Energy Development Offices (or "one stop shops") to streamline approval processes, conduct outreach and share technical information. H.R. 3973 also considers resources harvested or produced within an approved tribal resource management plan as a sustainable management practice for federal purposes and authorizes biomass demonstration projects.

NATURAL RESOURCES

NCAI works in concert with the intertribal organizations who are members of Our Natural Resources (ONR), an alliance dedicated to advancing the sustainability of tribal natural resources for the benefit of indigenous peoples, lifeways, cultures, economies, and future generations. ONR's members, strategy, and activities are available at www.ournaturalresources.org.

INDIAN YOUTH SERVICE CORPS (S. 896)

The Public Lands Service Corps Act of 2011 (S. 896) that contains the provisions for the Indian Youth Service Corps passed through the Senate Committee on Energy and Natural Resources with favorable amendments. S. 896 has been placed on the Senate Legislative Calendar (Calendar No. 282) under General Orders to wait to be brought to the Senate floor. Introduced in May 2011 by Senator Bingaman (D-NM) and co-sponsored by Senators Tom Udall (D-NM), Snowe (R-ME), Begich (D-AK), Coons (D-DE), and Boxer (D-CA), the Act would train and employ young men and women in natural resource projects to help manage America's natural resources for future generations. It is particularly beneficial to Indian tribes through the establishment of a national Indian Youth Service Corps (IYSC) and related grant program that enables Indian youth to carry out projects on Indian lands that are shaped and determined by Indian tribal governments. A tribe can establish an IYSC program through passage of a tribal resolution that describes the agreement between the tribe and a qualified youth or conservation corps to operate a program for the benefit of tribal members. Native Youth Conservation Corps and National Indian Youth Leadership Projects have been shown to provide tremendous opportunity to engage in short and long term partnerships and to create a pipeline of opportunities from K-12 to internships, education, and careers.

ONR continues to explore opportunities with Congress and the Administration to have tribes included in federal programs which provide financial assistance to states, local governments, and other entities for the protection of natural resources, but for which tribes are excluded by law or practice. Some of the natural resource statutes and corresponding programs include: the Coastal Zone Management Act, Coastal and Estuarine Conservation Program, and National Estuarine Research Reserves; the Community Forestry Assistance Act; and the Land and Water Conservation Fund.

CULTURAL & RELIGIOUS PROTECTION

Sacred Places: Last summer, the USDA Office of Tribal Relations and the US Forest Service released a *Draft Report to the Secretary* regarding Indian sacred sites that resulted from their joint initiative to conduct formal Tribal consultations on the effectiveness of existing department and agency sacred sites laws, regulations, and procedures. NCAI worked with issue area experts to draft and submit extensive comments on the draft report last fall. The final report is scheduled to be released in the near future.

Oak Flats: SE Arizona Land Exchange: On February 9, the Senate Committee on Energy and Natural Resources held a hearing on H.R. 1904, the Southeast Arizona Land Exchange and Conservation Act of 2011. NCAI passed a resolution opposing H.R. 1904 this past November at its 2011 Annual Convention in Portland, Oregon.

H.R. 1904 represents a bill of national significance for Indian tribes across the country, as it would transfer a known sacred site into the private ownership of foreign mining companies and result in the elements that make it a sacred site to Native peoples. The House of Representatives passed H.R. 1904 in October 2011, and it is critical that the Senate Committee on Energy and Natural Resources know tribes oppose the legislation.

Specifically, H.R. 1904 would direct the Secretary of Agriculture to convey over 2,400 acres of U.S. Forest Service land in southeast Arizona in an area known as Oak Flat to a mining company called Resolution Copper (RC), which is owned by the foreign mining giants Rio Tinto PLC (United Kingdom) and BHP Billiton Ltd (Australia). The mining company seeks to develop and operate an unprecedented large-scale copper mine. Oak Flat has deeply religious, cultural, archeological, historical, and environmental significance to Apaches, Yavapais, and other Tribes.

H.R. 1904 provides RCC with a special exemption from compliance with existing federal laws, including NEPA. This exemption effectively allows RCC to withhold from the public critical information about the proposed mine or its impacts to the land, water, cultural resources, animals and plants. Because of the unique cultural and recreational values of the area, Oak Flat was specifically withdrawn from mining by President Eisenhower over fifty years ago.

Eagle Feathers:

Last November, the Department of Justice (DOJ) announced that it was soliciting tribal feedback on two specific proposals related to federal enforcement of wildlife laws that aim to protect eagles and other birds. The following two proposals were formally announced in a “Request for Tribal Input” paper issued the first week in November: 1) adopting a formal department-wide policy that would memorialize and clarify its practice of enforcing federal wildlife laws in a manner that respects and protects the ability of members of federally recognized tribes to use eagle feathers and other bird feathers and parts for cultural and religious purposes; and 2) developing, through its National Indian Country Training Initiative, a training program on enforcement of wildlife and pollution-control laws in Indian country.

The deadline to submit comments to DOJ on these proposals was December 1, 2011. DOJ is currently in the process of reviewing and analyzing comments that they received. Once that

process concludes, DOJ has indicated its intent to move forward with both proposals in the coming months. NCAI and its tribal eagle feathers work group will continue to monitor movement on these issues and keep the membership aware of developments.

THE NATIONAL SECURITY AND FEDERAL LANDS PROTECTION ACT (H.R. 1505)

On October 5, 2011, the House Committee on Natural Resources passed the National Security and Federal Lands Protection Act (HR 1505), which threatens tribal sovereignty on all tribal lands located within 100 miles of the international land and maritime borders of the United States. The bill authorizes the Secretary of Homeland Security to have immediate access and to construct roads, fences and other infrastructure on lands managed by the Secretary of the Interior or the Secretary of Agriculture within 100 miles of the international land and maritime borders. It also waives the application of all environmental and cultural protection laws on these lands.

The bill uses the terms “federal lands,” “public lands,” and “land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture,” without distinction or reference to specific statutory definitions. As such, the bill is a direct threat to tribal lands and sovereignty. The NCAI membership passed Resolution PDX-11-073 opposing the legislation at the recent Annual Meeting. NCAI will continue to monitor and oppose H.R. 1505 as it makes its way through Congress and urge Congress to make clear that it is inapplicable to tribal lands.

CIVILIAN PROPERTY REALIGNMENT ACT (H.R. 1734)

The Civilian Property Realignment Act (CPRA, H.R. 1734) was passed by the House on February 7, 2012 with 31 cosponsors. The Senate received H.R. 1734 on Feb. 9, 2012 and referred the bill to the Senate Environment and Public Works Committee. H.R. 1734 was previously introduced in the Senate as S. 1503 by Senator Brown last August.

H.R. 1734 is designed to sell federal buildings and public lands to aid in deficit reduction. Such lands might include sacred sites or lands deemed culturally significant as well as properties proposed for tribal community development or for economic development and job creation. Outside of this bill, agencies may already adopt this tactic for reduction of costs through transfer of federal property. NCAI will work to leverage this opportunity for tribes to potentially gain land and property. For tribes to be fairly included in this transfer of assets, Representative Norton’s amendment needs to be added to the bill.

NCAI Supports Representative Eleanor Holmes Norton's Floor Amendment No. 5 addressing Indian access to the public property disposal process of HR 1734. This amendment was not added by the House but could be added in the Senate version. Representative Norton’s Amendment No. 5 addresses major issues with the current language. The amendment would correct the exclusion of reservation and tribal lands by using acceptable government terms for Indian tribes and Alaska Natives and adding the 25 USC definitions. The bill follows the BRAC model and, especially without Floor Amendment No. 5, does not include consideration for traditional or culturally-sensitive lands or for tribes' strategic community and business development and jobs creation plans. Floor Amendment No. 5 requires GSA consultation to create procedures to ensure Indian tribes are notified of the availability of excess property. Floor Amendment No. 5 allows for an Agency, such as DOI, to intercede in the process on behalf of tribes in proceedings for excess property - an action that is not included in the bill. Importantly,

Floor Amendment No 5 also adds a "tribal use" - establishing parity between state and local governments and tribes - to Floor Amendment No. 3 that proposes to exclude land from consideration that is: "suitable for assignment to the Secretary of the Interior for transfer to a State, a political subdivision or instrumentality of a State, or a municipality for use as a public park or recreation area" without regard for parity with tribal governments.

GOVERNMENT CONTRACTING

In response to members of Congress requesting increased analysis of government contracting the Government Accountability Office (GAO) released a report on January 2012 titled, *Monitoring and Oversight of Native 8(a) Firms Need Oversight*. In this report GAO was tasked with:

- 1) Identifying trends in government 8(a) contracting with tribal firms.
- 2) Determining why the government awards sole-source contracts to tribal 8(a) firms and the methodology used for price determinations.
- 3) Providing an assessment of the procuring agencies' oversight of contracts and compliance with subcontracting requirements.
- 4) Examining new 8(a) regulations promulgated by the Small Business Administration and how they could affect oversight of tribal 8(a) firms.

This report is a follow up study to the 2006 GAO report, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight* and, similar to the 2006 report's findings, the report found no instances of misconduct portrayed in the program as a whole, but did find potential for abuse of the program. Due to these findings the GAO requested that the Office of Federal Procurement Policy (OFPP) should consider amending its acquisition regulations and provide instruction on data collection and monitoring limits on subcontracting. GAO also suggested that the Small Business Administration (SBA) promulgate specific capabilities in its 8(a) database to improve tracking and examine tribal participation in 8(a) contracts. GAO noted these changes should assist the SBA in determining whether the Native 8(a) program practices align with the overall 8(a) business development goals.

The SBA response to the report, noting GAO found no grounds for increased limitation or elimination of the Native 8(a) program, called into question the methodology used by GAO on some of its findings. For instance, GAO selected 87 contracts awarded to Alaska Native Corporations (ANCs), American Indian tribes, and Native Hawaiian Organizations (NHOs) that were not based on a random sample and therefore cannot be generalized and applied to all Native 8(a) firms and contracts. GAO also did not highlight the benefits received by tribal communities through their participation in the Native 8(a) program.

Additional highlights from the 2012 GAO Report:

- Federal monies awarded through contracts to Native 8(a) firms from Fiscal Year 2005 through Fiscal Year 2010 grew 160% as compared to 45% to non-Native 8(a) firms
- Federal dollars obligated to Native 8(a) firms grew from \$2.1 billion in Fiscal Year 2005 to \$5.5 billion in Fiscal Year 2010
- In Fiscal Year 2010 Native 8(a) firms comprised just 6.2% of all operating 8(a) firms but received almost a third of all 8(a) awards.

- Sole-source contracts represented at least 75% of all Native 8(a) awards each year between Fiscal Years 2005 through 2010
- The SBA has reported to GAO that they are in the process of promulgating new requirements for an 8(a) contract tracking database
- GAO acknowledges that following the 2006 study the SBA proceeded with efforts to educate agencies pertaining to regulations on subcontracting limitations and provided clarification regarding responsibilities for monitoring subcontracting issues

TELECOMMUNICATIONS

On November 18, 2011 the Federal Communications Commission (FCC) released a Report and Order and Further Notice of Proposed Rulemaking overhauling the Universal Service Fund (USF) and substantially revising its intercarrier compensation (ICC) mechanisms. This Order adopts a new Connect America Fund, and a new Mobility Fund including a set-aside 'Tribal Mobility Fund'. This recent Order, 759 pages in length, released by the FCC represents the most significant overhaul of telecommunications regulation in nearly a century.

The FCC has continued this digital transition by announcing an overhaul of the Lifeline and Link-Up programs in a Report and Order on January 31, 2012. The proposed reforms of these programs are expected to save the Universal Service Fund approximately \$2 billion over the next three years. The FCC has also sought to establish a Broadband Adoption Pilot Program with the savings procured from reforms. This broadband program will determine how Lifeline can be utilized to increase broadband adoption among its eligible consumers.

Tribal specific Lifeline reforms include:

- Using the Food Distribution Program on Indian Reservations (FDPIR) as a determinant for eligibility to participate in the Lifeline program
- Recognition that separate families or multiple generations of families reside in a single household and therefore the program's one-per-household requirement defines "household" as an "economic unit"
- Link-Up support is eliminated except for residents on tribal lands that receive service from an eligible telecommunications carrier
- Tribal Lifeline subscribers will still receive a discount of up to an additional \$25 per month
- Release of a Further Notice of Proposed Rulemaking seeking comments on tribal lands Lifeline and Link-Up Support and establishing participation in the Women's, Infants, and Children (WIC) program as an eligibility criterion

President Obama and the Administration aim to transition the country away from analog based services and adopt digital broadband technologies. Many tribes across the country lack access to basic analog services, therefore, it is essential that during this transition tribes continue to engage in consultations with the FCC's Office of Native Affairs and Policy.

Tribal Specific Bills

NATIVE HAWAIIAN REORGANIZATION ACT

The Native Hawaiian Reorganization Act of 2011 remains a top priority for Native Hawaiians and for Chairman Akaka of the Senate Committee on Indian Affairs. The bill is S. 675 in the Senate and H.R. 1250 in the House. The bill was marked up and reported favorably out of the Senate Committee on Indian Affairs on April 7, 2011. NCAI strongly supports the legislation under a number of resolutions. An abbreviated version of the bill was included in last year's Senate Interior Appropriations bill, but was not ultimately enacted.

QUILEUTE TSUNAMI LEGISLATION

In extraordinarily good news for the Quileute Tribe, both the House and Senate have passed legislation (H.R. 1162/S. 636) which allows fundamental infrastructure of the Quileute Indian Tribe in Washington to relocate from within a tsunami zone. Currently, the Tribe's village of La Push is located within the coastal flood plain, with the Tribe's administrative buildings, school, elder center, and housing all located in a tsunami zone. The bill has been presented to President Obama, who is expected to sign it into law.

The soon to be new law provides the Quileute Indian Tribe with approximately 275 acres of land currently located within a National Park and approximately 510 acres of land along the Quileute River, also within the Park. The Tribe will be able to build a school, daycare center, elder care center, tribal government offices, and several residential homes on tracts of higher elevation land. The bill also links existing tribal land with tribal land held to the east of Olympic National Park.

SOUTHEAST ALASKA NATIVE LAND ENTITLEMENT FINALIZATION AND JOBS PROTECTION ACT
Introduced by Representative Don Young (R-AK) and Senator Lisa Murkowski (R-AK), this legislation (H.R. 1408 and S. 730) would finalize Native land claims for the Tlingit, Haida, and Tsimshian people of southeastern Alaska and is supported by NCAI resolution. The purpose of the legislation is to authorize Sealaska Corporation, the regional Alaska Native Corporation for southeastern Alaska created under the Alaska Native Claims Settlement Act, to move its congressionally-mandated selection areas in the Tongass National Forest from predominately "inventoried roadless" areas in the Tongass National Forest to predominately roaded areas in the Tongass. The legislation provides significant economic and environmental benefits by keeping community watersheds and fisheries habitat areas that are situated within the existing withdrawal areas in public ownership. In addition, Sealaska would take ownership of up to 8,600 acres of sacred and cultural sites and lands for alternative economic development in lieu of lands that could be selected under current law for timber. The bill is currently being negotiated for potential inclusion in a federal lands bill that may occur later this year.

Reauthorizations of National Legislation

VIOLENCE AGAINST WOMEN ACT (REAUTHORIZATION)

On November 30, 2011, Senators Leahy (D-VT) and Crapo (R-ID) introduced S. 1925, the Violence Against Women Reauthorization Act of 2011. This bipartisan legislation proposes several key improvements to Title IX of VAWA, the *Safety for Indian Women* title, that attempt

to bridge the gaps in the current system that leave Native women vulnerable to violent crimes of domestic violence and sexual assault. The most significant of these proposals is the recognition of the inherent authority of tribes to prosecute any person who commits domestic violence, dating violence, or violations of a protection order in Indian country.

S. 1925 also clarifies that tribal courts have full civil jurisdiction to issue and enforce protection orders against Indians and non-Indians alike and it amends federal law so as to enable federal prosecutors to more effectively combat three types of assault that are frequently committed against Native women in Indian country. At the NCAI Mid-Year Conference in Milwaukee in June, NCAI's membership passed resolution #MKE-11-034 that supports inclusion of these legislative proposals in the upcoming VAWA reauthorization.

The Senate Judiciary Committee passed S. 1925 out of committee on February 2, 2012 with all of the original tribal provisions intact, as well as new language that would create a funding set-aside for tribal domestic violence and sexual assault coalitions and change the structure of the tribal coalition funding from competitive grant funding to formula funding on an annual basis. S.1925 now awaits a floor vote, which is tentatively scheduled to occur prior to April 1, 2012.

The House Judiciary Committee is busy drafting the House version of the VAWA reauthorization, and HJC leadership is expected to introduce that bill in the coming weeks. NCAI is working with HJC staff to ensure that the key tribal provisions in the Senate bill are also included in the House version. NCAI encourages all tribes to contact their congressional leaders and urge them to support swift passage of S. 1925, the Senate version of the VAWA reauthorization.

STAND AGAINST VIOLENCE & EMPOWER NATIVE WOMEN ACT

On October 31, 2011, amidst NCAI's 68th Annual Convention in Portland, Oregon, Senator Akaka (D-HI), Chairman of the Senate Committee on Indian Affairs, introduced S. 1763, the Stand Against Violence & Empower Native Women Act (SAVE Act) in the Senate. This bill is a stand-alone version of the Tribal Title (Title IX) of the Violence Against Women Act (VAWA). When enacted, the bill would restore tribal criminal jurisdiction over non-Indians who commit crimes of dating violence and domestic violence on tribal lands, as well as those who violate protection orders. It would clarify tribal civil jurisdiction to issue and enforce protection orders, strengthen tribal coalition programs, and improve the response to sex trafficking of Native women.

Many of the proposals in the SAVE Native Women Act were drafted in close collaboration with the NCAI Task Force on Violence Against Women. They are the product of more than two years of meetings, strategy sessions, and drafting calls with task force members and national advocates. The proposals in the original bill were carefully crafted, thoroughly vetted, and endorsed by NCAI's membership in NCAI Resolution #PDX-11-005.

The SAVE Act currently has 13 co-sponsors and was marked up by and passed out of the Senate Committee on Indian Affairs on December 8, 2011. The NCAI Task Force will continue to work closely with Senate staff to ensure inclusion of its core provisions in the VAWA Reauthorization, which is also a moving legislative vehicle.

SAFETEA-LU (REAUTHORIZATION)

The Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59, expired on September 30, 2009, and been extended multiple times since. The latest extension for SAFETEA-LU runs through March 31, 2012. Another authorization of a transportation bill is necessary to authorize all current tribal transportation provisions, including the Indian Reservation Roads Program, Indian Reservation Roads Bridge Program, and the Tribal Transit Grant Program.

In the Senate, the transportation bill is under the jurisdiction of the Senate Committee on Environment and Public Works (surface transportation); Senate Committee on Commerce, Science and Transportation (rail and safety); Senate Committee on Banking, Housing and Urban Affairs (transit); and Senate Committee on Finance (highway trust fund). Towards the end of 2011, the Senate Committee on Environment and Public Works released and approve a \$9.6 billion the surface transportation bill, titled, *S. 1813- Moving Ahead for Progress In The 21st Century (MAP-21)*. In addition, Senate Commerce, Science and Transportation Committee marked up their piece of the transportation bill. In February, the Senate Banking, Housing & Urban Affairs Committee held a markup hearing on the transit piece, Federal Public Transportation Act of 2012; and Senate Finance Committee marked up the Highway Investment, Job Creation and Economic Growth Act of 2012, the funding portion of the two year transportation bill.

In February, The House unveiled a 5-year bill with a total cost of \$260 billion, titled, *H.R. 7- American Energy and Infrastructure Act of 2012*. Within the same week of releasing of H.R. 7, the legislative process moved quickly within the House Committee on Transportation and Infrastructure (transportation); House Committee on Ways and Means (financing); and House Committee on Natural Resources (energy), each of the Committees held markup hearings. One of the biggest challenges in both the House and Senate is to find a way to pay for the transportation bills, currently the Highway Trust Fund funding source for transportation projects, which has not been generating sufficient revenue to fund all transportation projects. To look at alternative ways to resolve the shortfall funding of the Highway Trust Fund, the House Republicans have included an energy policy piece to increase domestic energy output and use those royalties to pay for H.R. 7. The energy policies includes: to open up a portion of Alaska's Arctic National Wildlife Refuge (ANWR); allow drilling off the coast of southern California and in the currently off-limits eastern Gulf of Mexico; and to increase oil shale leasing program.

At the time this legislative update went to print, both House and Senate were still negotiating amendments to be consider for floor votes when they returned from Presidential holiday recess.

FARM BILL (REAUTHORIZATION)

The authorization of the current Farm bill (P.L. 110-234), enacted in 2008 and set to expire this year. When the Super Committee met in November 2011, chairs of the Senate and House Agriculture Committee provided recommendations for the next Farm bill. One of the recommendations was a \$23 billion cut to the Farm bill. Even though the Super Committee failed to an agreement the recommendations drafted for the Super Committee is what plan that both the House and Senate Agriculture Committee will rely on to move a farm bill before it expires on

September 30, 2012. In February, the Senate Agriculture Committee scheduled several oversight hearings to begin consideration and writing a multi-year Farm bill, to try to move a farm bill soon. Facing budget and time restraints both chairs of the Senate and House Agriculture Committee have set goals to move a new Farm bill by September 30th. The only certainty is the next farm bill will be revamping farm programs. NCAI will continue to work with Congress and the Administration to make certain tribal provisions is included in the upcoming Farm bill authorization.

ELEMENTARY & SECONDARY EDUCATION ACT (REAUTHORIZATION)

Indian Country's recommendations for improving the education of our Native children have been directly integrated into the Native Culture, Language, and Access for Success (CLASS) Act, which is currently pending in both the Senate (S. 1262) and the House of Representatives (H.R. 3568). The Native CLASS Act firmly recognizes and supports the role of tribal governments as sovereigns in directing the education of Native students. Senate bill S. 1262 passed out of the Committee on Indian Affairs in October 2011, and NCAI is working to move the bill to a Senate floor vote. In the House, Representative Kildee introduced the Native CLASS Act as H.R. 3568 in December 2011, and the bill is pending action in the House Committee on Education and the Workforce. As Indian Country's education bill, enacting the Native CLASS Act into law is NCAI's education priority.

While NCAI continues to advocate for passage of the Native CLASS Act, both the Senate and the House of Representatives are moving forward with reauthorization of the Elementary and Secondary Education Act. The Senate Health, Education, Labor, and Pensions (HELP) Committee passed a bi-partisan bill in October 2011. Unfortunately, this legislation did not include any of Indian Country's recommendations and as such, NCAI cannot support the bill as it is currently written. We are asking tribal leaders to contact their senators and HELP Committee leadership and request that Indian Country's recommendations be included in any final version of the bill. Without this inclusion, the ESEA will not improve the education of Native students.

The House of Representatives recently introduced two final ESEA bills, completing a package of five bills that would rewrite the current law. NCAI has serious concerns about all five pieces of legislation and, in partnership with the United South and Eastern Tribes, has sent a letter to the House Committee on Education and the Workforce expressing these concerns. First and foremost, by merging the ESEA's Indian education programs into Title I, the bills enable states to divert funds intended for Native students for other purposes—an act that would severely undermine the federal trust responsibility to educate Native children. The legislation also cuts many critical Indian education programs, including the Alaska Native and Native Hawaiian Education Equity programs and the National Indian Education Study. Finally, the bills eliminate the accountability measures that help ensure our Native children have equitable educational opportunities. NCAI is working with the House Committee to remedy these concerns before the legislation moves any further.

WELFARE REFORM (REAUTHORIZATION)

The Temporary Assistance for Needy Families (TANF) is a federal block grant designed to help needy families achieve self-sufficiency. In 2010, there were 64 tribal TANF programs being funded at approximately \$182 million of the overall \$17 billion budget. TANF was originally

scheduled for reauthorization in 2010, but Congress has issued several extensions to maintain current funding levels. The most recent bill, the Middle Class Tax Relief and Job Creation Act (H.R. 3630), extends the block grant through September 30, 2012. Yet, the Supplemental Grants and the TANF Emergency Fund were not authorized for funding.

In partnership with tribal leaders and program representatives, NCAI has developed national tribal priorities that include: 1) Maintaining program flexibility; 2) Direct tribal funding; 3) Opportunities to negotiate funding levels; 3) Increased coordination between tribes and the Administration for Children and Families (ACF); 4) Enforcement of P.L. 102-477 Compliance; and 5) Equitable treatment of Alaska Native tribes. NCAI has also established a TANF taskforce that will provide additional recommendations to improve the administration of tribal TANF programs.

WORKFORCE INVESTMENT ACT (REAUTHORIZATION)

NCAI, with other stakeholders, has continued to pursue the reauthorization of the Workforce Investment Act (WIA). The legislation has been up for reauthorization since 2003 and it continues to operate in an economic environment that has drastically changed. Enacted in 1998 by President Clinton, the WIA includes a Native American Program (Section 166), which supports employment and training activities for American Indians and Alaska Natives. Today, the program serves approximately 32,000 unemployed, under-employed, and under-skilled American Indians, Alaska Natives, and Native Hawaiians through a network of 178 grantees through the Comprehensive Service Program (Adult) and Supplemental Youth Service Program (Youth).

The Senate released a discussion draft with the intention of rewriting the bill, and the House is planning to amend sections of the existing bill. Currently, some Members have proposed drastic changes (H.R. 3610 and S. 1960) to eliminate the Native American Program, and consolidate these funds into a mainstream competitive grant. H.R.3611 also changes the composition of workforce investment boards. Tribes recognize these proposals as a threat to tribal sovereignty, and do not support the elimination of job training and workforce development programs for impoverished tribal communities.

ADAM WALSH ACT (REAUTHORIZATION)

On January 19, 2012, Congressman Sensenbrenner (R-WI) introduced H.R. 3796, the Adam Walsh Reauthorization Act of 2012, in the House. Although many members of Congress just want to do a straight reauthorization bill, without amending any of the substantive provisions of the Act, there are some who disagree with that approach. One is Representative Bobby Scott (D-VA). Rep. Scott plans to offer at least two tribal-specific amendments to H.R. 3796 at the House Judiciary Committee markup of the bill. One amendment would remove of the language imputing jurisdiction to the states if tribes do not substantially implement within a reasonable timeframe. The other would allow tribes in Public Law 280 states to opt in as SORNA jurisdictions. Both of these proposed changes are critically important to tribes, and NCAI urges tribes to contact members of the House Judiciary Committee and urge them to support these changes.

Administration Implementation Updates

COBELL SETTLEMENT

The \$3.4 billion *Cobell v. Salazar* settlement (the Settlement) has been approved by Congress, upheld by the federal district court, and currently awaits resolution of several appeals.

By law, payment cannot be dispersed until all appeals are resolved and finalized. Currently, there are two active appeals in the U.S. Court of Appeals for the District of Columbia. Oral arguments in the first appeal, filed August 6, 2011, occurred last month on February 16, 2012. Oral arguments for the second appeal, filed September 30, 2012, are scheduled to occur May 15, 2012. Payment from the Settlement may begin as soon as these appeals are resolved and final. However, if these appeals are successful, parts of, or all, of the Settlement could be denied, and attorneys on behalf of the Cobell Settlement may find themselves appealing such a decision to the U.S. Supreme Court.

The Settlement resolves disputes over the federal government's mismanagement of Indian trust funds and trust resources. Under its terms, the Settlement creates a \$1.5 billion Accounting/Trust Administration Fund and a \$1.9 billion Trust Land Consolidation Fund. It also creates an Indian Education Scholarship fund of up to \$60 million to improve access to higher education for Indians.

HEALTH CARE IMPLEMENTATION

Since passage of the Patient Protection and Affordable Care Act (ACA) and Indian Health Care Improvement Act (IHCA) in 2010, the federal government has worked to implement key provisions of the law. Many of these provisions directly impact tribal communities. To ensure that tribes and our health system, the Indian Health Service, are included in a meaningful way, NCAI has been an active partner in facilitating the implementation the new law. NCAI has provided federal agencies opportunities to meet with tribal leaders during our annual conventions and conferences and has provided tribal comments on a number of essential implementation questions.

One implemented provision of importance to tribal leaders is the recently announced enrollment timeline for the Federal Employee Health Benefits (FEHB) program. To implement this provision the Office of Personnel Management (OPM) assembled a tribal-federal workgroup, established enrollment processes that work for the majority of tribes and distributed educational materials for tribal use. The option to enroll in FEHB began February 1, 2012 for employee coverage to begin May 1, 2012. OPM will continue to collect letters of intent each month, train those choosing to enroll, and troubleshoot issues through 2012. For those tribes that are interested in FEHB enrollment, have questions about the program, or want the educational materials please visit www.opm.gov/tribalprograms.

NCAI, in partnership with the National Indian Health Board, continues to provide weekly updates to tribal leaders, health directors, and consumers. In addition, our organizations are co-hosting a training on implemented provisions of the law that directly affects tribal communities. To find out more about the training, the ACA, or IHCA visit www.tribalhealthcare.org.

TRIBAL LAW & ORDER ACT (TLOA) IMPLEMENTATION

This summer will be the two-year anniversary of enactment of the Tribal Law & Order Act (TLOA), and the Obama Administration continues to proceed with implementation of several key provisions of the law. A few recent implementation activities are highlighted below.

On December 6, 2011, the Department of Justice published its final rule on Assumption of Concurrent Federal Jurisdiction on PL280 Reservations. A copy of it can be found on the Tribal Law & Order Resource Center website at: <http://tloa.ncai.org/files/Sec221Regs.pdf>. This rule establishes the procedures for an Indian tribe whose Indian country is subject to State criminal jurisdiction under Public Law 280 (18 U.S.C. 1162(a)) to request that the United States accept concurrent criminal jurisdiction within the tribe's Indian country, and for the Attorney General to decide whether to consent to such a request. This assumption of concurrent jurisdiction process was authorized by the Tribal Law & Order Act of 2010 (TLOA). Several tribes have submitted formal requests to the DOJ since TLOA's enactment. Now, DOJ may proceed to act on those requests.

The Indian Law and Order Commission (ILOC) created by the TLOA and tasked with reviewing the current justice system on tribal lands and providing recommendations for improvement continues to hold hearings on a regular basis in attempt to gather information for its final report. The commissioners, led by Chair Troy Eid, now have a core group of staff assisting them in their work. Current ILOC staff includes: Assistant United States Attorney Jeff J. Davis, a member of the Chippewa Tribe and Executive Director of the ILOC; Eileen Garry, the Deputy Director of the Justice Department's Bureau of Justice Assistance and Deputy Executive Director of the ILOC; and Laurel Iron Cloud from the Department of Interior is now serving as ILOC's Deputy Director. For more information on the ILOC and their upcoming hearings, visit the website: <http://www.indianlawandordercommission.com/>.

For more information and comprehensive updates about TLOA implementation, we urge you to sign up for our listserv on the Tribal Law & Order Resource Center website at <http://www.ncai.org/tloa>. This website, created as part of the Tribal-State Collaboration and Justice Capacity Building Project, is an interactive website, the aim of which is to disseminate information about tribal justice, track implementation of TLOA, post upcoming events, and create a network of key criminal justice stakeholders.

If you have questions or concerns regarding this update, please contact John Dossett, jdossett@ncai.org, or Katy Jackman, kjackman@ncai.org.



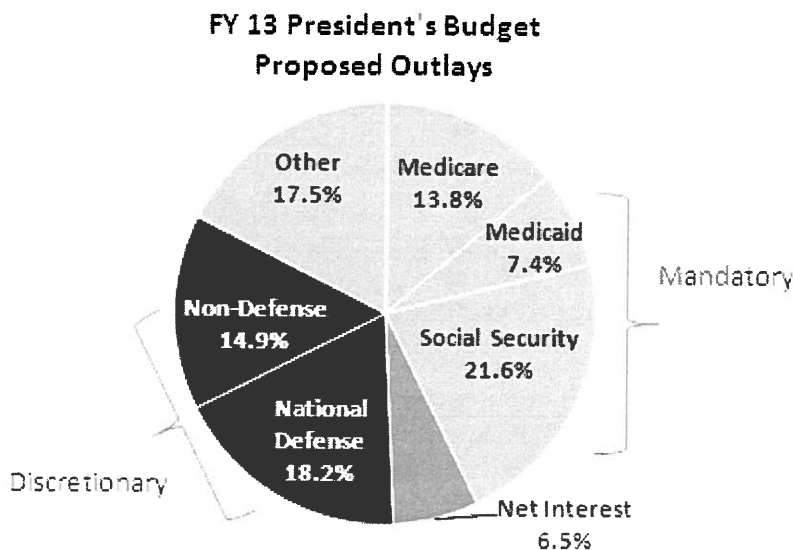
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NCAI ANALYSIS OF THE PRESIDENT'S FY2013 BUDGET REQUEST

ADMINISTRATION RELEASES FY 2013 BUDGET

On February 13, the President released a \$3.80 trillion budget request to Congress, which is slightly more than the \$3.79 trillion estimated for FY 2012. This broadcast provides a preliminary analysis of the President's FY 2013 proposed budget as it impacts funding for Indian programs. In the coming weeks and months, the President's budget will be reviewed by Congress, and appropriations committees and subcommittees will hold hearings on the proposals. In January of this year, NCAI released its [FY 2013 tribal budget recommendations](#), which can be compared to the Administration's budget. NCAI also passed [resolutions](#) urging Congress to uphold the trust, treaty, and statutory obligations to tribes in the federal budget in the face of these fiscal deliberations.

The budget request in general increases spending for transportation and infrastructure, education, civilian scientific research, and green energy. Overall discretionary spending, the part of the budget that funds many of the trust and treaty obligations to tribes, was capped by last year's Budget Control Act at \$1.047 trillion for FY 2013. The Budget Control Act also charged a Joint Committee on Deficit Reduction to come up with \$1.5 trillion in additional deficit reduction. However, the Committee failed and automatic sequestration was triggered (across-the-board-cuts), which is scheduled to go into effect January 1, 2013. The budget request, if enacted, would replace the \$1.2 trillion sequester with a set of spending cuts that makes cuts to low priority programs and increases resources for job creation and investment.



Many tribal programs fall into the category of discretionary domestic funding. In preparation for the President's budget, some agencies have consulted with tribes about programs in the budget. Some recommendations from Indian Country are included in the FY 2013 proposal, such as increases for contract support costs, some natural resource and environmental protection programs, public safety initiatives, and contract health services. Sustained funding for tribal self-determination is critical to the economic foundation of Indian Country. NCAI will work to ensure that the federal programs that fulfill the trust responsibilities to tribes receive bipartisan support in the upcoming appropriations process. Tribes look forward to contributing to the economic recovery, but to do so, tribes must assume their rightful place as full partners in the American family of governments. Given the historic disparity in resources for tribal governments compared to similarly situated governments, now is not the time to retreat from fulfilling the promises made to tribes.

HIGHLIGHTS OF PROPOSED FUNDING FOR TRIBAL PROGRAMS

Below are a few highlights from NCAI's initial analysis of the President's budget. Additional department summaries are addressed below as well as links to many of the agency budget documents for even more in depth analysis.

Economic Development and Land Restoration

- The President included language in the proposed budget to provide a no-cost economic development and jobs creation solution for restoring land to tribal governments impacted by the *Carieri* Supreme Court decision. (p. 758 of the Budget of the United States Government, Fiscal Year 2013, [Appendix](#).)

Increases

- The budget request for the **Indian Health Service** is \$4.422 billion, an increase of \$115.9 million over the FY 2012 enacted level.
- Approximately \$345 million is proposed for **public safety initiatives in Indian Country**, with a total of \$156.8 million set aside for tribal grant programs within the Department of Justice.
- The **Bureau of Indian Affairs** is essentially level-funded, with small increases for **Tribal Priority Allocations, contract support costs, Rights Protection Implementation, and Tribal Management and Development**, among others.
- An increase of approximately \$29 million over FY 2012 appropriations is proposed for the **Tribal General Assistance Program**. These additional funds will assist tribes in capacity building and promote protections for the environment and human health.

Decreases

- Bureau of Indian **Education construction** is proposed to be cut to \$52.8 million. This program was funded at \$140.5 million in FY 2011 and \$70.8 million in FY 2012.
- The **Indian Guaranteed Loan Program** would decrease to \$5 million, a \$2.1 million cut.

DEPARTMENT OF INTERIOR

Indian Affairs

The FY 2013 President's budget includes \$2.5 billion in current appropriations for Indian Affairs, which is \$4.6 million or 0.2 percent below the FY 2012 enacted level. The budget proposes a total of \$897.4 million in Tribal Priority Allocations.

(dollars in thousands)	2011 Actual	2012 Enacted	Fixed Costs & Related Changes	Internal Transfers	Admin Cost Savings	Program Changes	2013 Budget Request	Change from 2012
Tribal Priority Allocations	884,167	891,070	5,719	-151	-16,106	16,904	897,436	6,366

Significant changes in Indian Affairs include an increase of \$8.8 million in **contract support** and Indian self-determination funds. Under public safety, the FY 2013 request provides programmatic increases over the FY 2012 enacted level of \$3.5 million to hire additional tribal and bureau **law enforcement personnel**, \$6.5 million to fund staff increases at newly constructed tribal and Bureau **detention centers**, and an increase of \$1 million for **tribal courts**. Under trust land management, the FY 2013 budget would provide increases in Trust Natural Resources of \$3.5 million for the **Rights Protection Implementation** program and \$2 million for the **Tribal Management and Development** program to support fishing, hunting, and gathering rights on and off reservations. The budget request would provide program increases of \$1 million for the **Forestry** program and \$500,000 for the **Invasive Species** program. An increase of \$800,000 supports greater BIA and tribal participation in the **Landscape Conservation Cooperatives**, for a total of \$1 million. **Tribal Grant Support Costs** would receive an increase of \$2 million.

(dollars in thousands)	2011 Actual	2012 Enacted	2013 Request	Change	% Change
Operation of Indian Programs					
Tribal Government	509,589	519,331	529,158	9,827	1.9%
Human Services	136,621	136,360	135,151	-1,209	-0.9%
Trust - Nat. Res. Management	156,082	157,245	162,109	4,864	3.1%
Trust - Real Estate Services	145,821	126,759	127,813	1,054	0.8%
Public Safety and Justice	334,090	346,223	353,882	7,659	2.2%
Comm and Econ Dev	36,856	34,810	34,333	-477	-1.4%
Executive Dir/Admin Services	258,089	251,530	239,573	-11,957	-4.8%
Indian Education	52,698	795,480	796,133	653	0.1%
Indian Arts and Crafts Board	[1,308]	[1,279]	1,279	1,279	
TOTAL	2,329,846	2,367,738	2,379,431	11,693	0.5%
Construction					
Education Construction	140,509	70,826	52,866	-17,960	-25.4%
Public Safety and Justice	17,864	11,311	11,306	-5	0.0%
Resources Mgmt Construction	42,075	32,959	32,733	-226	-0.7%
Other Program Construction	9,132	8,534	9,005	471	5.5%
TOTAL APPROPRIATION	209,580	123,630	105,910	-17,720	-14.3%
Indian Guaranteed Loan	8,199	7,103	5,000	-2,103	-29.6%
Current BIA Appropriations		2,531,273	2,526,634	-4,639	-0.2%
TOTAL, BIA		2,744,442	2,634,163	-110,279	-4.0%

For more budget details, view the [Indian Affairs Budget in Brief document](#) and the full Indian Affairs FY 2013 Budget Justification is available [here](#).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

The FY 2013 President's Budget request for IHS is \$4.422 billion, an increase of \$115.9 million over the FY 2012 enacted level. The request includes funds to support activities identified by the tribes as budget priorities, including increasing resources for the Contract Health Services program; funding the contract support costs shortfall; addressing essential health information technology activities; and providing routine facility maintenance. Overall, the budget request addresses the need to sustain the Indian health system, expand access to care, and continue to improve oversight and accountability in key administrative areas.

Specifically, this request includes the following:

CURRENT SERVICES (+\$85.6 million)

Federal Commissioned Officer Pay Costs (+\$2.4 million)

The budget request projects a 1.7 percent pay raise for Commissioned Officers.

Inflation for Contract Health Services (+\$34.0 million)

Inflationary costs help maintain the current level of services and offset the rising cost in providing health care. The \$34 million is the calculated need to address a 3.6 percent medical inflation rate for the Contract Health Services program.

Staffing and Operating Costs for New Facilities (+\$49.2 million)

This request will fund the staffing and operating costs for six newly constructed Health Centers scheduled to open in FY 2013, including three Joint Venture projects. In addition, the request will complete the funding requirements to staff and operate two Joint Venture projects scheduled to open in FY 2012.

PROGRAM INCREASES / DECREASES (+\$30.3 million)

Contract Health Services (+\$20 million)

The increase will provide additional health care services for the American Indian and Alaska Native population by purchasing approximately 848 inpatient admissions, 31,705 outpatient visits and 1,116 one-way transportation services. Contract Health Services (CHS) funds are necessary to purchase health care services where direct IHS and tribal health care is non-existent or unavailable and supplemental funds are needed to provide comprehensive care.

Health Information Technology (HIT) and Electronic Dental Record (+\$6 million)

The largest portion of the Agency's major IT investments is its HIT systems, which are a critical and necessary component for the delivery of patient care services at the numerous IHS and tribal hospitals and ambulatory clinics, and Urban Indian Health Programs serving 2.1 million American Indians and Alaska Natives. The HIT systems capture patient and performance data for statistical reporting and decision-making, and comprise the billing and collection system for third party reimbursements. The \$6 million HIT increase will support mandatory ICD-10 (International Classification of Diseases) implementation and provide \$1 million in support for the Electronic Dental Record (EDR) program. These increases will allow Indian Health Service, tribally managed, and urban Indian Health programs to improve billing for third party revenues, address the accuracy

of medical records and health information systems, improve patient safety overall and improve the quality of and access to care across the Indian health care system.

Direct Operations (+\$1.1 million)

The increase will be used to: (a) maintain improvements and reforms made to-date and to continue enhancements in the IHS' capacity for providing comprehensive oversight and accountability in key administrative areas such as: human resources, property, financial management, performance management and CHS program improvements developed through CHS consultation recommendations on improving business practices related to CHS and third party reimbursements; (b) address recent Congressional oversight and reports issued by the General Accountability Office and the Office of Inspector General which recommended improvements in management of IHS programs such as the CHS program; (c) address unfunded mandates for national initiatives associated with privacy requirements, facilities, and personnel security; and, (d) improve responsiveness to external authorities such as OMB and Congress including, but not limited to, reforms related to oversight recommendations and the implementation and continuing accountability for new permanent authorities of the reauthorization of the Indian Health Care Improvement Act.

Contract Support Costs (+\$5 million)

The increase will be applied to the Contract Support Costs shortfall associated with ongoing contracts and compacts with tribes and tribal organizations under the Indian Self Determination and Educational Assistance Act.

Maintenance and Improvement (+\$1.7 million)

The increase will be used to provide routine maintenance funding for federal and tribal healthcare facilities.

Health Care Facilities Construction (-\$3.6 million)

The FY 2013 request represents a decrease of \$3.6 million from the FY 2012 appropriated base level for Health Care Facilities Construction. The funding will be used to continue construction on health facility construction projects already underway.

Indian Health Service Programs (thousands)	(Dollars in	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request
Services				
Hospitals & Health Clinics		1,762,865	1,810,966	1,849,310
Dental Services		152,634	159,440	166,297
Mental Health		72,786	75,589	78,131
Alcohol & Substance Abuse		194,409	194,297	195,378
Contract Health Services		779,927	843,575	897,562
Total, Clinical Services		2,962,621	3,083,867	3,186,678
Public Health Nursing		63,943	66,632	69,868
Health Education		16,649	17,057	17,450
Community Health Reps.		61,505	61,407	61,531
Immunization AK		1,930	1,927	1,927
Total, Preventive Health		144,027	147,023	150,776
Urban Health		43,053	42,984	42,988
Indian Health Professions		40,661	40,596	40,598
Tribal Management Grants		2,581	2,577	2,577

Direct Operations	68,583	71,653	72,867
Self-Governance	6,054	6,044	6,044
Contract Support Costs	397,693	471,437	476,446
Total, Other Services	558,625	635,291	641,520
TOTAL, SERVICES	3,665,273	3,866,181	3,978,974
FACILITIES			
Maintenance & Improvement	53,807	53,721	55,470
Sanitation Facilities Construction	95,665	79,582	79,582
Health Care Facilities Construction	39,156	85,048	81,489
Facilities & Environmental Health Support	192,701	199,413	204,379
Equipment	22,618	22,582	22,582
TOTAL, FACILITIES	403,947	440,346	443,502
TOTAL, BUDGET AUTHORITY	4,069,220	4,306,527	4,422,476
COLLECTIONS			
Medicare	196,941	198,848	198,848
Medicaid	636,779	641,863	641,863
Subtotal, M / M	833,720	840,711	840,711
Private Insurance	81,006	81,006	81,006
Total, M / M / PI	914,726	921,717	921,717
Quarters	6,288	7,500	7,500
TOTAL, COLLECTIONS	921,014	929,217	929,217
Special Diabetes Program for Indians	150,000	150,000	150,000
TOTAL, DIABETES	150,000	150,000	150,000
TOTAL, PROGRAM LEVEL	5,140,234	5,385,744	5,501,693

The full IHS budget justification is available [here](#).

Substance Abuse and Mental Health Services Administration (SAMHSA)

The SAMHSA FY 2013 President's Budget request for total program level is \$3.4 billion, a \$141.9 million decrease from the FY 2012 Enacted Level. The FY 2013 request is comprised of \$3.2 billion in budget authority (a decrease of \$195.5 million from FY 2012), \$164.8 million in PHS Evaluation funds (an increase of \$35.1 million from FY 2012), \$105.0 million in ACA Prevention Funds (an increase of \$17.0 million from FY 2012), and \$1.5 million for User Fees for data and publications requests beyond the normal requests from the general public (which is new for FY 2013).

(Dollars in millions)	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request
SAMHSA Total Budget Authority			3,152
Behavioral Health – Tribal Prevention Grants	0	0	40
AI/AN Suicide Prevention Initiative	3	3	3

Behavioral Health Tribal Prevention: Within this total, the Budget includes \$40 million for a Behavioral Health Tribal Prevention Grant. Grants will be awarded to each of the 566 federally-recognized tribes to implement strategies to prevent substance abuse and suicides. SAMHSA will coordinate with the Indian Health Service (IHS) to implement community-based prevention strategies that complement the clinical services provided by IHS-funded providers.

American Indian/Alaska Native Suicide Prevention Initiative: Although no increase has been requested, suicide remains a top priority for tribal leaders and SAMHSA will continue to offer technical assistance and training with this requested funding.

Administration on Aging (AoA)

The FY 2013 budget request for AoA is \$1,978,336,000, a net increase of \$7,052,000 from the comparable FY 2012 enacted level. This request builds on the FY 2012 enacted budget, proposing level funding for core areas with small increases where the need is greatest and making offsetting reductions in others. The request also includes \$10,000,000 from the Prevention and Public Health Fund (PPHF) for Chronic Disease Self-Management Programs.

(Dollars in millions)	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Change
Administration on Aging				
Native American Nutrition & Support Services	28	28	28	--
Native American Caregiver Support Services				
Adult Protective Services	6	6	6	--
	--	--	8	+8

Administration for Children and Families (ACF)

The FY 2013 President’s Budget request for the ACF, including both mandatory (pre-appropriated and entitlement) and discretionary programs, is \$50 billion in budget authority – an increase of \$170 million from the FY 2012 enacted level. The FY 2013 discretionary budget request is \$16.2 billion; a decrease of \$0.3 billion below the FY 2012 enacted level.

Head Start: The President’s FY 2013 budget requests an additional \$85 million to improve the quality of services and accountability at Head Start programs across the country. Forty million dollars of this increased budget will be used to ensure that grantees meet quality benchmarks. Otherwise, they will be required to compete against other organizations in their community for continued funding.

Low Income Home Energy Assistance (LIHEAP): The Budget decreases the LIHEAP by \$450 million, leaving \$3 billion to offset home heating and cooling costs for struggling families. While the cost of natural gas – the heating fuel used by most LIHEAP households – has not risen in recent years, the cost of heating oil has been on the rise. The request also includes \$200 million in contingency funds, which will be used for home-delivered fuels and other emergencies.

Administration for Native Americans (ANA): The FY 2013 request for Native American Programs is \$48,583,000, the same as the FY 2012 enacted level. To further the Department’s commitment to strengthening tribal governments, ANA will highlight “self-governance” as a priority area and provide opportunity for programs that support family and youth projects to work together. It is intended that these projects will: (1) promote coordination among human service programs for tribal communities to strengthen the services they provide to their children, youth, and families, and (2) build the capacity and infrastructure of tribal governments to enter into self-governance compacts.

(Dollars in millions)	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Change
Administration for Children & Families	7,560	7,969	8,054	+85
Head Start	4,701	3,472	3,020	-452
LIHEAP	63	63	63	--
Promoting Safe and Stable Families	2,223	2,278	2,603	+325

Child Care and Development Block Grants	49	49	49	--
Administration for Native Americans	48	48	48	--

The HHS budget justifications are available at <http://www.hhs.gov/budget/#justification>.

DEPARTMENT OF JUSTICE

The President's FY 2013 Budget requests approximately \$345 million for public safety initiatives in Indian Country, with a total of \$156.8 million set aside for tribal grant programs within the Department of Justice (DOJ). While this is a significant overall decrease compared to the President's FY 2012 DOJ request, the tribal grant program funding numbers are still more than the approximate \$123.9 million FY 2012 enacted level, demonstrating the Administration's continued commitment to improving the criminal justice system on tribal lands.

Similar to last year's request, the Department again proposes bill language for a **7 percent tribal set-aside** from all discretionary **Office of Justice Programs** (OJP) programs to address Indian country public safety and tribal criminal justice needs. Unfortunately, under the FY 2013 request, the 7 percent set-aside totals \$81,375,000—more than a \$20 million decrease from last year's request. Although the details of how these funds will be administered are yet to be determined, the goal is to provide a more flexible grant structure for tribes. To offset this new policy, the Department proposes to eliminate bill language contained in prior years' Appropriations Acts that had specific funding amounts for traditional tribal justice programs – such as tribal prison construction, tribal courts initiative, tribal alcohol and substance abuse reduction assistance, and tribal youth.

Approximately \$40.5 million is requested for tribal initiatives within the **Office of Violence Against Women** (OVW) and aimed at addressing the high victimization rates of American Indian and Alaska Native women for the crimes of domestic violence, sexual assault, dating violence, and stalking on tribal lands. Of these funds, \$35,320,000 (a \$50,000 increase over FY 2012 enacted levels) is requested for disbursement through the VAWA Tribal Government Grants Program, while \$3,605,000 would be funneled to tribal coalitions through the VAWA Tribal Coalitions Grants Program. Also within these OVW funds, the President has requested that \$500,000 be available for an Indian Country Sexual Assault Clearinghouse that will offer a one-stop shop for tribes to request free on-site training and technical assistance. The FY 2013 budget request also sustains funding for Analysis and Research on Violence Against Indian Women at \$1 million.

Unfortunately, the FY 2013 budget request for tribes under the **Community Oriented Policing Services** (COPS) program to fund tribal law enforcement expenses is funded at \$20 million, the same as the FY 2012 enacted amount but much lower than it was just two years ago. Moreover, the \$42 million that the President requested for tribes under the COPS Hiring Program in FY 2012 has been reduced to just \$15 million for FY 2013. These funds are critical for the hiring and retention of tribal law enforcement officers.

While the DOJ FY 2013 Budget Request may total less than last year's request, it still provides tribes with more flexibility in how they spend their DOJ grant dollars. This demonstrates the Justice Department's continued commitment to tribal self-determination and the improved administration of justice on Indian lands. It is also important to remember that Indian tribes are also eligible for funding under several non-tribal specific DOJ grant programs, such as the Adam Walsh Act Implementation Grant Program and the Second Chance/Prisoner Reentry Grant Program.

More generally, the President's DOJ FY 2013 Budget Request: sustains national security interests; upholds traditional missions; increases focus on financial and mortgage fraud; invests in federal

prisons and detention capacity; maintains tribal, state, and local law enforcement support; streamlines programs and operations; and expands Health Care Fraud enforcement. For more information, and copies of the various DOJ Budget Request Fact Sheets, visit <http://www.justice.gov/opa/pr/2012/February/12-ag-205.html>.

DEPARTMENT OF EDUCATION

The President's total education budget request is \$69.8 billion, an increase of \$1.7 billion, or 2.5 percent, over the FY 2012 level. In addition to sustaining reform initiatives such as Race to the Top and Investing in Innovation (i3), the FY 2013 budget request for the Department of Education is focused on three new priorities:

- (1) improving affordability and quality in postsecondary education
- (2) elevating the teaching profession to the same high status it enjoys in nations with the highest-performing education systems, and
- (3) strengthening the connections between school and work and better aligning job training programs with workforce demands.

Specific proposals include:

\$1 billion for Race to the Top: Funds would be awarded to states with a strong record of increasing college affordability and quality, which could be demonstrated in such ways as maintaining a consistent state financial commitment to higher education, operating institutions that reasonably stabilize or contain the growth in what students pay for college and measure and publicize institutional value in terms of financial returns and other outcomes, making use of data to drive policy, and improving alignment between K-12 and postsecondary education and across colleges.

\$55.5 million for a "First in the World" fund: Funding would help postsecondary institutions, including private institutions and nonprofit organizations, to develop, evaluate, or scale up innovative and effective strategies for improving college completion outcomes while lowering costs and increasing the quality and capacity of higher education.

\$5 billion in one-time funds through the American Jobs Act: The initiative would provide support to states and districts to pursue bold reforms at every stage of the teaching profession.

25-percent set-aside of Effective Teachers and Leaders State Grant funds under Title II: This increased set-aside—approximately \$617 million—would support efforts to build evidence on how to best recruit, train, and support effective teachers and school leaders; recruit and prepare effective science, technology, engineering, and mathematics teachers; and invest in efforts to enhance the teaching and school leadership professions.

\$190 million in mandatory funding for a new Presidential Teaching Fellows program: Formula grants to states that meet certain conditions to award scholarships of up to \$10,000 to talented individuals attending the most effective programs in the state.

\$8 billion over 3 years for a community college initiative: Jointly administered by the Departments of Education and Labor, the initiative would improve access to job training across the nation and support state and community college partnerships with businesses.

\$1.1 billion to support the reauthorization and reform of the Career and Technical Education (CTE) program: Currently set to expire at the end of fiscal year 2012, the Administration's reauthorization

proposal would restructure CTE to increase the rigor and relevance of what students learn in school to more closely align with the demands of the 21st century economy and workforce, while creating stronger linkages between secondary and postsecondary education.

Department Education (Dollars in millions)	FY 2011 Actual	FY 2012	FY 2013 Request	Change from FY12 to FY13
Impact Aid	1273	1291	1224	- 67
Indian Education Act, Title VII	127	130	130	-
Education for Native Hawaiians	34	34	34	-
Alaska Native Education Equity Assistance Program	33	33	33	-
Strengthening AN, Native HA-Serving Institutions	15	15	15	-
Strengthening Tribal Colleges and Universities (mandatory)	30	30	30	-
Tribally Controlled Postsecondary Institutions	8	8	8	-
Strengthening Native American-serving nontribal institutions (mandatory)	5	5	5	-

Impact Aid

The \$67 million – 5 percent – cut in Impact Aid, is the elimination of the line item for Payments for Federal Property. The justification for this elimination is that the line item payments are made to Local Education Agencies without regard to the presence of federally connected children and do not necessarily provide for educational services for such children. This cut will likely not have an effect on Indian Country.

Indian Education Act, Title VII

The FY 2012 appropriations act included first time funding for grants to tribal educational agencies in order to build their capacity to assume certain administrative responsibilities for ESEA programs under arrangements with state educational agencies (SEAs). These grants would be continued in FY 2013.

The Department of Education Budget justifications are available at:

<http://www2.ed.gov/about/overview/budget/budget13/justifications/index.html>.

DEPARTMENT OF AGRICULTURE

In the President's FY 2013 budget request for the Department of Agriculture (USDA), the Administration has set priorities involving renewable energy, housing, utilities, infrastructure, and rural development. The \$155 billion funding level for USDA is 5 percent more than it was for FY 2012. The FY 2013 funding request mirrors USDA efforts to innovate, modernize, and increase stewardship of taxpayers' money. USDA's budget proposes to reduce or eliminate selected programs and reallocate resources to priority programs.

Program (in millions)	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Budget Request
Office of Tribal Relations	1	.448	.498
Federally-Recognized Tribes Extension Program (FRTEP)	3	3	3
Expanded Food and Nutrition Education Program (EFNEP)	68	68	68
Animal Health APHIS Discretionary	878	820 Estimate	765
APHIS Mandatory	280	282	278
Native American Endowment Fund	12	12	12
Indian Fractionated Land Loans	0	10	10
Water and Waste Disposal Programs			
Direct Loans	77	70	81
Guaranteed Loans	0	1	0
Grants	439	432	415
Broadband Programs			
Direct Loans	22	6	9
Grants	13	10	13
Distance Learning and Telemedicine Programs	33	21	25

Office of Tribal Relations: The budget proposes \$498,000 to fund the Office of Tribal Relations in order to strengthen tribal relations and manage tribal programs, education and outreach.

Federally Recognized Tribes Extension Program (FRTEP): The FRTEP supports extension agents who establish programs in agriculture, community development, families, and societal issues facing Native Americans. The budget proposes \$3 million for the program to be used to develop and deploy sustainable production practices.

Extension and Education on Tribal Lands and at 1994 Institutions: Additionally, the budget proposes \$4.3 million for Extension Services research grants at the 1994 Institutions to conduct Expanded Food and Nutrition Education Program (EFNEP) research in a number of Native American communities through a competitive grant process. Also, \$1 million is requested for community facilities grants under the Tribal Colleges Education Equity Grants Program which is designed to promote and strengthen higher education instruction in the food and agricultural sciences at the 34 tribal colleges and universities.

Animal Health: The budget includes a total of \$279 million to protect the health of livestock, poultry, and other animals, compared to \$282 in FY 2012. The request includes an increase of about \$5.3 million to \$38 million for Animal Health Technical Services that support the improved animal disease traceability system, which has been developed using stakeholder input. The Budget includes a decrease from \$5 million in FY 2012 to \$4 million in FY 2013 for Equine and Cervid Health activities with a stated move to eliminate federal contributions towards addressing chronic wasting disease. While the Animal and Plant Health Inspection Services (APHIS) will continue to have the role of national coordinator regarding chronic wasting disease, surveillance, and indemnity costs will be shifted to tribes and states as they are expected to assume greater financial support for the program.

Native American Institutions Endowment Fund: The 2013 Budget includes the same level as the FY 2012 enacted, \$11.9 million, for an endowment for the 1994 land-grant institutions (34 tribally controlled colleges) to strengthen the infrastructure of these institutions and develop Indian

expertise for the food and agricultural sciences and businesses and their own communities. At the termination of each fiscal year, the Secretary withdraws the income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the fund, distributes the adjusted income on a formula basis to the 1994 land-grant institutions.

Water and Waste Disposal Program: The program provides direct loans to municipalities, counties, special purpose districts, certain Indian Tribes, and non-profit corporations to develop water and waste disposal systems in rural areas and towns with populations of less than 10,000. The program also guarantees water and waste disposal loans made by banks and other eligible lenders. In FY 2013 the projected loan level is \$1 billion for direct loans. No guaranteed loans are proposed for FY 2013 due to the increase in cost for this program coupled with the low demand for these funds.

Other Programs: The FY 2013 budget proposes sustaining the Indian Tribe Land Acquisition Loan Program at the \$2 million level and the Indian Fractionated Land Loans program at \$10 million. The FY 2013 budget provides \$9 million in budget authority to support \$94 million in broadband loans, \$13 million for broadband grants and \$25 million for grants under the Distance Learning and Telemedicine programs.

Nutrition

Food Nutrition and Consumer Services (in millions)	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Budget Request
Special Supplemental Nutrition Program for Women, Infant, Children (WIC)	6,734	6,618	7,041
Food Distribution Program on Indian Reservations (FDPIR)	60.75	62.01	64.611

WIC: The President’s FY 2013 Budget requests over \$7 billion in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to support the 9.1 million individuals expected to participate in the program. WIC is critical to the health of pregnant women, new mothers, and their infants and young children.

Food Distribution Program on Indian Reservations (FDPIR): FDPIR provides USDA Foods to low-income households living on Indian reservations, and to American Indian households residing in approved areas near reservations or in Oklahoma. Currently, there are approximately 276 tribes receiving benefits under FDPIR through 100 ITOs and 5 State agencies. The Budget maintains funding for FDPIR and requests a small increase to account for food inflation.

Rural Economic Programs

The Department of Agriculture FY 2013 budget includes substantial support for rural economic development programs. Funding for the Business and Industry Guaranteed Loans program is increased by \$10 million to \$821 million. This program provides protection against loan losses so that lenders are willing to extend credit to establish, expand, or modernize rural businesses

Rural Business Enterprise Grants (RBOG) Program: Funding for rural projects that finance and facilitate development of small and emerging rural businesses is increased from \$24 million to \$30 million, while the Rural Business Opportunity Grants program, with its \$1 million set aside for tribal communities is no longer funded – a total loss of \$2 million.

Rural Economic Development Program: The FY 2013 budget maintains the FY 2012 allocations for Direct Loans at \$33 million and Grants at \$10 million. A new program – the Rural Microentrepreneur Assistance Program proposes startup funding in FY 2013 of \$22 million to be used to establish reserves for relending to microentrepreneurs for training, operational support, business planning, and market development assistance, with a FY 2013 funding allocation of \$3.4 million to support approximately \$22.5 million in loans. Additionally, the Guaranteed Loans funded under the Rural Energy for America Program show an increase in funding from \$6 million in FY 2012 to \$19 million in FY 2013.

Natural Resources and Environment

Program (in millions)	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Budget Request
Wildlife Habitat Incentives (WHIP)	50	50	73
Watershed Rehabilitation Program	18	15	0
Environment Quality Incentives Prog	1,238	1,400	1,403
Conservation Security Program	204	197	182
Conservation Stewardship Program	601	769	972

Conservation Security Program: The Conservation Security Program was established in the 2002 Farm Bill and is a voluntary program that provides financial and technical assistance on tribal and private agricultural working lands to support ongoing conservation stewardship. The program provides payments to producers who maintain and enhance the condition of natural resources. The program was not reauthorized in the 2008 Farm Bill; the FY 2013 Budget includes \$182 million for the Conservation Security Program to service existing contracts.

Conservation Stewardship Program (CSP): The FY 2013 request for this program increased by more than \$200 million to \$972 million. The 2008 Farm Bill replaced the Conservation Security Program with a new Conservation Stewardship Program which is distinguished from the old program in that it encourages participants to undertake new conservation activities in addition to maintaining and managing existing conservation activities. Also, the new program operates under an annual acreage limitation rather than a funding cap. The proposed budget of nearly \$1.0 billion will allow CSP to enroll 12 million new acres during 2013 in addition to servicing prior year contracts.

Environmental Quality Incentives Program (EQIP): EQIP funding has been maintained at \$1.4 million in FY 2013. The purpose of EQIP is to provide assistance to landowners who face serious natural resource challenges that impact soil, water and related natural resources, including grazing lands, wetlands, and wildlife habitat. The plan is to reduce the deficit by targeting funding to high priority areas with the highest conservation benefit, which are typically on smaller farms. Agricultural Water Enhancement Program (AWEP), is also under EQIP, is funded at \$60 million, the same level authorized in the 2008 Farm Bill, for FY 2012. AWEP promotes the conservation of ground and surface water and the improvement of water quality.

Watershed Rehabilitation Program: Under the Watershed Protection and Flood Prevention Act, assistance is provided to communities to address the rehabilitation of aging local dams. The FY 2012 enacted level included \$15 million for the Watershed Rehabilitation Program. No funding is requested in the FY 2013 budget request, reflecting the Administration's position that the maintenance, repair, and operation of these dams are the responsibility of local project sponsors. The FY 2013 Budget also proposes no mandatory funding for this program in 2013; the \$165 million currently available is proposed to be permanently eliminated

Wildlife Habitat Incentives Program (WHIP): The program develops habitat for upland wildlife, wetland wildlife, threatened and endangered species, fish, and other wildlife. The FY 2013 request assumes extension of WHIP and proposes a funding level of \$73 million, while proposing to permanently cancel funds exceeding this amount in FY 2013.

DEPARTMENT OF COMMERCE

The President's FY 2013 budget places a strong emphasis on job creation, advanced manufacturing and promoting exports, and foreign direct investment. The budget outlines a number of funding proposals focused on manufacturing and improving the competitiveness of small and medium firms in manufacturing and service industries as well as creating a nationwide interoperable wireless network for public safety.

Business Development: The Minority Business Development Agency budget of \$29 million is a small reduction from \$30 in FY 2012 million. In comparison, the Economic Development Administration funding was reduced from \$457 million to \$220 million, reflecting the Agency's continuing move to close all 5 National Enterprise Centers, citing duplicative coverage with the Agency's MBDA Service Centers.

National Oceanic and Atmospheric Administration (NOAA)

The President's FY 2013 budget proposes \$800 million for the National Marine Fisheries Service. NOAA proposed no funds for the Fisheries Finance Program (FFP) account. Established to cover the cost of financing direct loans, NOAA noted that these loans do not require an appropriated subsidy. The FY 2013 President's Request includes an additional \$50 million for the Pacific Coastal Salmon Recovery Fund.

Telecommunications

The President's FY 2013 budget proposes a 10-year National Wireless Initiative that would provide \$10 billion from anticipated spectrum auction proceeds to help build an interoperable public safety broadband network and recommends the provision of additional spectrum for public safety use. This will help tribal first responders communicate with one another and correspond with state and federal agencies more effectively. Start-up funding of \$50 million is also proposed for a new Public Safety Broadband Corporation with responsibility for ensuring the public safety broadband network is built, deployed, and operated in consultation with tribal, federal, state, and local public safety entities.

The National Telecommunications and Information Administration (NTIA) received \$47 million with an additional \$27 million for NTIA to continue to administer and monitor over \$4 billion in active projects under the Broadband Technology Opportunities Program. The budget proposes \$1.2 million to support NTIA's continuing work to identify 500 megahertz of spectrum for wireless broadband use.

Research and Innovation

The President's FY2013 budget proposes \$648 million for the National Institute of Standards and Technology – an increase of \$81 million from FY 2012 – to support multiple research efforts and support, including research in advanced manufacturing, health IT, telemedicine, Smart Grid, environmental monitoring, and cloud computing.

International Trade

The FY 2013 Budget requests \$517 million for the International Trade Administration – a 14 percent increase over FY 2012 – designed to strengthen the efforts of the National Export Initiative meet the President’s goal of doubling U.S. exports by the end of 2014, including improving U.S. trade promotion and trade enforcement.

ENVIRONMENTAL PROTECTION AGENCY

Although the Environmental Protection Agency’s (EPA) FY 2013 budget decreased approximately \$105 million overall from FY 2012, much of the tribal set asides received increased funding. Recognizing tribes and states as the primary implementers of environmental programs the EPA continued funding its State and Tribal Assistance Grants program, which accounts for 40 percent of the EPA’s budget request and is the largest percentage of the EPA’s budget request. Tribes received an increase of approximately \$29 million over FY 2012 appropriations to the Tribal General Assistance Program. These additional funds will assist tribes in capacity building and promote protections for the environment and human health.

EPA (Dollars in thousands)	FY2011 Enacted	FY2012 Enacted	FY2013 Request	FY13 - FY12
Clean Water State Revolving Fund	1,963,434	1,466,456	1,175,000	-291,456
Drinking Water State Revolving Fund	1,101,828	917,892	850,000	-67,892
Alaska Native Villages	10,327	9,984	10,000	16
Tribal Air Quality Management	14,366	13,252	13,566	314
Tribal General Assistance Grants	69,331	67,631	96,375	28,744
Section 106 Water Pollution Control (tribes)	252,138	238,403	265,264	26,861
Tribal Integrated Solid Waste Mgmt (RCRA)		0	0	0
Tribal Capacity Building	13,893	13,736	15,062	1,326

For more information on the EPA budget visit
<http://www.epa.gov/planandbudget/annualplan/fy2013.html#FY13budget>

DEPARTMENT OF ENERGY

The Department of Energy overall FY 2013 budget request of \$27.2 billion is a small increase over the FY 2012 enacted level. Part of this increase requires a significant restructuring of programs to streamline and cut those that are not working or no longer needed. For tribally specific programs, the Department of Energy requested a 25.3 percent increase for the Office of Indian Energy Policy and Programs. This increase brings the OIEPP closer to the statutory maximum of \$20 million, a request included in the NCAI FY 2013 Tribal Budget Request document. The Tribal Energy Program request included a 30 percent cut and will seek to develop tools for leveraging existing public and private financing for deployment of tribal energy projects. One-hundred and thirty nine million dollars was requested for the Weatherization Assistance Grants Program which is contained within the Weatherization and Intergovernmental Activities. This large increase over the enacted Weatherization Assistance Grants Program budget from last year (which was \$68 million) will expand certified training programs for workers in the arena of residential energy retrofits with the intention of making weatherization jobs a lasting part of the economy.

	FY 2011	FY 2012	FY 2013
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	Enacted	Enacted	Request
Tribal Energy Activities	10,000,000	10,000,000	7,000,000
Office of Indian Energy Policy and Programs	1,477,000	2,000,000	2,506,000
Weatherization & Intergovernmental Activities (national in scope)	231,300,000	128,000,000	195,000,000

For the more Energy budget information, use this link: <http://www.cfo.doe.gov/crOrg/cf30.htm>.

FEDERAL COMMUNICATIONS COMMISSION

President Obama's FY 2013 budget request announced an increase of two percent over current funding levels for the Federal Communications Commission. The President's proposed FY 2013 budget for the FCC is \$347 million and included provisions to accelerate wireless broadband deployment, construction of a national broadband public safety network, and permanently extending the FCC's authority to engage in the process of auctioning spectrum licenses. The Administration also called for the authority to repurpose the D block spectrum to create a national broadband network for first-responders. This D block spectrum is currently licensed for television and government agencies.

The request includes an increase of \$300,000 for the FCC's Office of Native Affairs and Policy (FCC-ONAP) compared to its base funding levels from FY 2012. This office is tasked with advancing the agenda for the entire FCC's tribal consultation efforts. This increase to the base funding of FCC-ONAP will enable the office to continue its consultation activities in rural and remote locations throughout Indian Country.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The funding levels for the Indian housing programs within the Department of Housing and Urban Development are maintained at current level funding from enacted FY 2012 appropriations levels. The Department is aware that housing conditions in Indian Country are impacted by housing overcrowding and have great housing needs.

	FY 2010 Enacted	FY 2011 Enacted	FY 2012 Enacted	Requested FY 2013
(\$ in millions)				
Native American Housing Block Grant	635	690	650	650
Indian Housing Loan Guarantee Fund	8	7	6	7
Indian Community Development Block Grant	62	65	60	60

For more details on the HUD budget visit <http://portal.hud.gov/hudportal/HUD?src=/fy2013budget>.

DEPARTMENT OF LABOR

Employment and Training Administration (dollars in thousands)	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Change: FY13-12
Workforce Investment Act (WIA): Indian and Native American Program	52,758	47,652	52,758	+5,000

Workforce Investment Act (WIA): The President's FY 2013 budget requests over \$52 million for the Indian and Native American Program (INAP), which is authorized by section 166 of the Workforce Investment Act (WIA). This is the same as FY 2011 enacted level and an increase of \$5,000,000 over the FY 2012 amount. At this funding level, the program expects to serve 32,000 unemployed, under-employed, and under-skilled Native American adults. The INAP serves American Indians,

Alaska Natives, and Native Hawaiians through a network of 178 grantees through the Comprehensive Service Program (Adult) and Supplemental Youth Service Program (Youth).

SMALL BUSINESS ADMINISTRATION

The President's FY 2013 budget decreases the funding for the Office of Native American Affairs (ONAA) for its outreach initiatives to \$0.85 million – a reduction from \$1.25 million in FY 2012. ONAA will continue outreach to Native American tribes and Native American, Alaska Native and Native Hawaiian entrepreneurs to ensure access to key SBA programs including entrepreneurial development, lending, and contracting. Specifically, \$722,500 is planned for contractual services to fund the Native American entrepreneurial development initiative; the Native American veterans outreach series; and the tribal UCC development initiative, in conjunction with the Federal Reserve Bank of San Francisco. ONAA also plans collaboration programs with Treasury, tribal colleges and universities and small business development centers to encourage tribal outreach initiatives.

DEPARTMENT OF TRANSPORTATION

The Department of Transportation (DOT) President's budget request for FY 2013 envisions critical investments in infrastructure that are vital to the nation's economic success. Included in the budget is a new six-year \$476 billion surface transportation reauthorization proposal to improve the nation's transportation infrastructure. The President's budget also seeks to fully pay for the transportation investment through gas tax and other revenues and from the savings from the Overseas Contingency Operation reductions, a decrease of military operations.

Additional changes included in the DOT's FY 2013 budget is the consolidation of 55 surface transportation programs within the Federal Highway Administration to five core programs: (1) Highway Safety Improvement Program; (2) National Highway Program; (3) Livable Communities Program; (4) Federal Allocation Program; and (5) Research, Technology and Education Program. A major change has also been to rename the Indian Reservation Roads Program (IRR) and has been changed to the **Tribal Transportation Program (TTP)**, this will encompass the former IRR Bridge Program, planning, and a new safety program for TTP roads. The amount requested for FY 2013 for Tribal Transportation Program is \$600 million with gradual step increases for each fiscal year up to \$785 million for FY 2018.

The President has requested for Federal Transit Administration Tribal Transit Grant Program to be allocated at \$15 million for FY 2013.

(\$ in millions)	FY 2010 Enacted	FY 2011 Enacted	FY 2012 Estimate	Requested FY 2013
Federal Highway Administration				
<i>Federal Allocation Funding</i>				
<i>Tribal Transportation Program</i>				
Indian Reservation Roads Program	450	450	450	(-)
Indian Reservation Bridge Program	14	14	14	(-)
Federal Transit Administration				
Tribal Transit Grant Program	15	15	15	15

For more details on the DOT budget, visit http://www.dot.gov/budget/2013/dot_budget_highlights_fy_2013.pdf.

DEPARTMENT OF THE TREASURY

The President's FY 2013 budget increases the Department of the Treasury's (Treasury) budget by 8.5 percent over the FY 2012 levels to \$16.1 billion. While overall funding for the Community Development Financial Institutions Fund was reduced by 12.38% from \$146 million to \$128 million, funding for the Native American CDFI Assistance (NACA) Program remained at \$12 million, reflecting no change from FY 2012. Through the NACA program, the CDFI fund makes monetary awards to increase the number and capacity of existing or new Native CDFIs that provide access to credit, capital and financial services in American Indian, Alaska Native, and Native Hawaiian communities. Additionally, the FY 2013 budget language reinstates the requirement for matching funds for Small and Emerging CDFI Assistance (SECA) Program applicants and Financial Assistance (FA) applicants for the Native American CDFI Assistance Program (NACA Program). This means that all SECA and NACA FA awards will be in the form of grants for this fiscal year.

Other programs in the Treasury FY 2013 budget of interest to tribes include the Healthy Food Financing Initiative, providing up to \$25 million to support increased availability of affordable, healthy food alternatives in underserved and low-income communities through the use of Federal grants, below market-rate loans, loan guarantees and tax credits. In addition, the FY 2013 request includes \$15 million for the Bank Enterprise Award, which provides funding to federally-insured banks to invest in CDFIs to increase their lending and financial services in economically distressed communities. Additionally, within the total funding for the CDFI fund, up to \$20 million is requested for the new Bank on USA Program, which promotes access to affordable and appropriate financial services and basic consumer credit products for the approximately 25 percent of Americans who are unbanked or under-banked (i.e., having a bank account but also using alternative service providers such as check cashers or payday lenders). Given almost 45 percent of Native people are unbanked or under-banked, this program could benefit Indian Country.



Coordinating the NCAI Policy Research Center's Work: *Introducing the DORSAL Strategy*

Mission. The NCAI Policy Research Center serves the goal of “supporting Indian Country in shaping its own future” through the following mission:

*“The mission of the NCAI Policy Research Center is to provide **tribal leaders** with the **best available knowledge** to make strategically proactive **policy decisions** in a framework of **Native wisdom** that **positively impact** the future of Native peoples” (emphasis added, Advisory Council Meeting, 2005, p. 2).*

Areas of Work. The NCAI Policy Research Center Department has identified four areas of work as part of a strategy developed to carry out this mission and to work alongside NCAI’s other departments in serving the mission of NCAI. These areas of work include:

- 1) **Data Development** (includes our Census & Budget work and future work to map existing data and support our Legislative Department’s need for trend data);
- 2) **Research Regulation & Impact** (includes our Research Curriculum, Federal Comments, and Native American Research Centers for Health community-based participatory work);
- 3) **Synthesis, Dissemination, & Translation** (includes work to synthesize existing research and policy; to support effective dissemination through database development and indicators work; and to translate research for community use); and
- 4) **Leadership & Network Development** (includes efforts to establish more formal affiliations with Native researchers, scholars, and advocates; and to get resources and information out to our networks).

This strategy can be easily referenced through the acronym DRSL (or ‘dorsal’). A related metaphor further describes the role the NCAI Policy Research Center will serve at NCAI. Consider that dorsal fins serve various functions in nature. In particular, they help marine mammals to:

- o “Stabilize” from rolling over;
- o “Protect” against predation;
- o “Assist” when there is a need to re-direct course quickly; and
- o “Propel” through rough currents.

In addition, the unique markings on and shape of an animal’s dorsal fin enable it to “stand out and be identified” from others. As such, the NCAI Policy Research Center will aid in establishing NCAI as the ‘go to’ agency for a unique range of policy research services.



NCAI Policy Research Center Current Projects

March 2012

Core Work

Census Information Center

Program Manager: Amber Ebarb

The NCAI Policy Research Center was designated a Census Information Center (CIC) in 2006. Designation as a CIC will help facilitate the NCAI Policy Research Center provide tribal leaders across the United States the best available knowledge, specifically increasing access to Census information and data products to use for research, planning, and decision-making purposes. CIC's are recognized as official sources of demographic, economic, and social statistics produced by the Census Bureau and provide training and technical assistance to interested data users.

NCAI Policy Research Center Tribal Leader/Scholar Forum

Program Manager: Christina Daulton

For the past six years, the National Congress of American Indians (NCAI) Policy Research Center has conducted the Tribal Leader/Scholar Forum during the NCAI Mid-Year Conference. The annual NCAI Policy Research Tribal Leader/Scholar Forum is a day of programming that centers on American Indian and Alaska Native tribal communities and provides a space for researchers, tribal leaders and citizens, and organizations to speak with one another about research being conducted with tribal communities and Native people. The theme for this year's Forum is "Exercising Our Sovereignty: Using Research to Strengthen Policymaking" and will feature presentations that highlight the value of research in American Indian and Alaska Native communities and feature how tribes and Native people are using research to advance sovereignty. will focus specifically on how tribes exercise their sovereignty around research. For the first time this year, the NCAI Policy Research Center is also seeking poster presentation proposals from Native undergraduate and graduate students to showcase during a reception in conjunction with the Tribal Leader/Scholar Forum. The 7th Annual Tribal Leader/Scholar Forum will be held on **Tuesday, June 19, 2012, in Lincoln, Nebraska**. The call for proposals for this year's forum was sent on January 12, 2012 and proposals were accepted until February 24, 2012.

Grants

Partnership with University of New Mexico Center for Participatory Research and University of Washington Indigenous Wellness Research Institute (UW-IWRI) and NCAI Policy Research Center

Funder: Native American Research Centers for Health funding mechanism through National Institutes of Health (NIH) and Indian Health Service (IHS)

Principal Investigator: Malia Villegas

Program Manager: Emily White Hat

In an effort to improve the health of American Indian/Alaska Native (AI/AN) tribal communities, this project seeks to understand the range of ways that communities are engaged as partners in their own health research and intervention projects. Research for Improved Health is a mixed methods study that consists of qualitative case studies and focus groups and quantitative web-survey. A website has been

developed to share information about the study and about community-based participatory research in Native communities and other communities of color as well as to share resources for the conduct of ethical, effective research. Study aims include: 1) Describe the variability of CBPR projects across dimensions in the CBPR conceptual model to identify differences and commonalities across partnerships; 2) Describe and assess the impact of governance on CBPR processes and outcomes across AI/AN and other communities of color; 3) Examine the associations among group dynamic processes and three major CBPR outcomes: culturally-responsive and centered *interventions*; strengthened research infrastructure and other *community capacities*; and new health-enhancing *policies and practices*, under varying conditions and contexts; and 4) Identify promising practices, assessment tools, and measurement instruments for use by partnerships nationwide.

Expanding National Datasets to Strengthen Tribal Policymaking

Funder: Open Society Institute

Project Director: Malia Villegas

Program Manager: Amber Ebarb

The objective of this project is to improve access to and availability of national datasets that shape federal, tribal, and state policymaking that affects Native communities. This proposal would produce five deliverables: 1) a suite of products that examine and evaluate existing datasets and the way they describe Native communities, 2) a one-day research forum to present these written products and reflect on their implications, 3) a strategy session with tribal leaders and policy research experts to develop recommendations, 4) a meeting of the NCAI Policy Research Center (PRC) Advisory Council to review results and set strategy for future work, and 5) the development and the design of a workshop presentation to share results of this initiative more broadly and to mobilize additional allies for change.

Web-Based Genetics Research Resource Guide for American Indian and Alaska Native Communities

Funder: National Institutes of Health (NIH) Human Genome Research Institute

Editor and Lead Author: Puneet Sahota, PhD, NCAI Policy Research Center Senior Research Fellow

Program Manager: Christina Daulton

The National Congress of American Indians Policy Research Center has received funding for two years from the National Institutes of Health National Human Genome Research Institute to create a web-based resource guide about genetics research for American Indian and Alaska Native communities. The primary target audiences for the project are tribal leaders and American Indian and Alaska Native community members. The goal of this project is to provide Native communities with the tools they need to confidently make their own informed decisions about genetics research. This guide and NCAI do not seek to influence tribes either way about whether or not to participate in genetics research. Rather, the resource guide will provide tribes with the tools to make their own informed and thoughtful decisions about genetics research participation. As of January 2012, the majority of the content has been authored for the guide (see below for contributors). Review of the content was conducted by NIH staff and a select group of Native scholars, lawyers, tribal leaders, tribal program staff, and directors of Native non-profit organizations. Community review and input into the content and guide is slated for June 2012 at NCAI's Mid Year Conference. The guide will be released in late 2012.

Partnership with Center for Native Health Partnerships (CNHP) at Montana State University and NCAI Policy Research Center

Funder: National Institutes of Health (NIH) Task Force on Bioethics Research, Training, and Translation

Program Manager: Christina Daulton

The NCAI Policy Research Center and Montana State University's Center for Native Health Partnerships (CNHP) together have been awarded a grant from the National Institutes of Health (NIH) to support Montana tribes in managing research. The grant allows the NCAI Policy Research Center to offer

independent trainings using their NCAI Policy Research Center curriculum—*Research that Benefits Native People: A Guide for Tribal Leaders*—to three (3) tribes in the state of Montana at no cost to the tribe. In September 2009, the NCAI Policy Research Center finalized a core curriculum and in-person training entitled *Research that Benefits Native People: A Guide for Tribal Leaders*. When the curriculum was released in 2009, NCAI received requests from Montana tribes who expressed interest in having NCAI visit their community to deliver the training. Due to the NIH funding, the NCAI Policy Research Center is excited to be able to offer the training to three tribes in Montana. Apart from the training opportunity with tribes, another aim of the grant is to work with researchers in the Montana University system to increase their capacity to work in an ethical and meaningful way with American Indian peoples and tribes in Montana. The NCAI Policy Research Center and CNHP will collaboratively develop and deliver a virtual workshop and companion paper on tips for researchers working with tribal nations.

Partnership with Washington University Center for Diabetes Translational Research (WU-CDTR) and NCAI Policy Research Center

Funder: National Institutes of Health (NIH)

Co-Core Investigators: Malia Villegas and Eddie Brown

Program Manager: Emily White Hat

The goal of the WU-CDTR is to eliminate disparities in Type 2 diabetes by translating evidence-based interventions to diverse communities. To achieve this goal, the WU-CDTR is organized around two interacting scientific themes that address: 1) the root causes of diabetes and disparities, and 2) obesity as a major contributing factor to Type 2 diabetes. The primary aims of the WU-CDTR are to support transdisciplinary investigators conducting type II translation research through four Cores: 1) The Health Communication and Health Literacy Core, which will advance the study of health communication science to test strategies for addressing health disparities in diabetes prevention care; 2) The Health Economic and Policy Analysis Core, which will advance the study of economic and policy-level interventions to eliminate disparities in diabetes prevention and care; 3) The Dissemination and Implementation in Diabetes Research Core, which will advance the study of implementing, disseminating, and sustaining evidence-based approaches through integration in real world settings to improve diabetes prevention and care; 4) The Research Partnerships with American/Alaska Native Communities Core, which will increase the capacity of researchers engage in translational research to prevent obesity and Type 2 diabetes in American Indian and Alaska Native (AI/AN) communities.

Native Public Health Law Partnership

Funder: Robert Wood Johnson Foundation

Project Director: Emily White Hat

Access to tribal codes and ordinances can be challenging in Indian Country. This project seeks to enhance once area of tribal code development – Public Health Law. The project has three principal objectives: 1) Identify and publish a database of existing public health laws in Indian Country; 2) Build Indian Country's capacity to address issues related to public health law; 3) Enhance the understanding of the RWJF public health law network of the challenges and opportunities presented by tribal public health law.

NCAI Cross-Organization Work

Tribal/Interior Budget Council

Funder: Jamestown S'klallam Tribe & Department of Interior

Program Manager: Amber Ebarb

The Tribal/Interior Budget Council (previously the Bureau of Indian Affairs/Tribal Budget Advisory Council) was established in 1999 to facilitate tribal government participation in the planning of the BIA budget and includes two tribal representatives from each of the 12 BIA regions. The mission of the TIBC is: to provide an advisory government-to-government forum and process for Tribes and the Department to

develop budgets that allow for the fulfillment of tribes' self-determination, self-governance, sovereignty, and treaty rights, as well as sufficient levels of funding to address the needs of Tribes and their tribal citizens. NCAI subcontracts with DOI Indian Affairs and coordinates with the TIBC leadership in supporting the TIBC consultations, including: plan meetings, agenda development with BIA and tribal co-chairs, disseminate information and meeting announcements to TIBC representatives, develop and maintain a TIBC website, track actions and resolutions, facilitate budget strategy development and conduct historical budget and data trend analysis.

Indian Country Budget Request Report

Program Manager: Amber Ebarb

Throughout the debates and controversies involving federal fiscal policy, NCAI has monitored the implications for Indian programs and the trust responsibility, from the President's budget, the budget resolutions, the frequent continuing resolutions and the Budget Control Act of 2011, which will significantly change the federal budget process in the coming years. One of the signature products NCAI releases each year is the comprehensive Indian Country Budget Request, which guides recommendations throughout the next year of appropriations hearings and the full budget cycle. NCAI will continue to build upon this work in the coming years to ensure tribes and tribal citizens are protected in the federal budget.

National Indian Health Education and Outreach Consumer Survey and Results

NCAI PRC Staff: Christina Daulton, Malia Villegas

In August 2011, NCAI, the National Indian Health Board (NIHB), and the National Council of Urban Indian Health (NCUIH) were awarded grants from the Indian Health Service (IHS) to collaborate on the National Indian Health Education and Outreach initiative (NIHOE). Through this partnership, our organizations are working together to develop the necessary tools and resources to assist tribal nations and their communities in making more informed decisions about their new health care options under the Patient Protection and Affordable Care Act (ACA). In collaboration with legislative staff and our partners, the PRC worked to develop a national electronic survey to determine the health care education needs of American Indian and Alaska Native consumers. Through the NIHOE Consumer Survey partners found that there is significant need for consumer education on a number of topics, including information on private insurance changes and options, eligibility for government health care programs, health care delivery, access to health care, and how to implement changes in tribal communities.

Education Data Mapping: Snapshot of American Indian and Alaska Native Education

NCAI Policy Research Center staff: Christina Daulton, Amber Ebarb, and Malia Villegas

With the reauthorization of the Elementary and Secondary Education Act (ESEA) on the horizon, the NCAI Policy Research Center Staff along with legislative fellows began to compile education indicators from federal and organizational data sets on American Indians and Alaska Natives—from the number of American Indians and Alaska Natives in Bureau of Indian Education schools, to participation in college, to tribes providing incentives to their citizens for education, to staffing, infrastructure, and facilities, among others. These indicators are helping to build a snapshot of American Indians and Alaska Natives educational attainment, to increase understanding of data gaps, and where potential research translation and synthesis is needed.

Constitutional Committee

The National Congress of American Indians (NCAI) will be hosting a Constitutional Convention during the 2012 Annual Convention. NCAI Policy Research Center staff have programmed the survey and will provide analysis of the results to the Constitution Committee.