

# Background On the Issues

## I. Indian Budget

The Budget Control Act of 2011 requires Congress to cap discretionary spending from FY 2012 through FY 2021, cutting about \$841 billion. Much of the funding that fulfills the federal trust responsibility to tribes is categorized as domestic discretionary spending and must be approved in the annual appropriations bills. An example of these bills is the Interior-Environment Bill which funds the Bureau of Indian Affairs, the Indian Health Service, and the Office of Special Trustee. Other annual spending bills with important tribal programs that will be affected by the discretionary spending caps are: 1) Labor-Health and Human Services-Education; 2) Agriculture; 3) Energy-Water; 4) Transportation-Housing and Urban Development; 5) Commerce-Justice-Science; and 6) Homeland Security. Already, the amount of federal funding dedicated to tribes in each of these areas lags far behind the national average for similar programs and services.

Tribes stand united in reminding Congress that the federal government's trust obligation to sustain funding for tribal programs is a sacred and historic duty. This obligation is the result of treaties negotiated and agreements made between tribes and the United States in exchange for all of the lands which make up the United States today. It must be honored and protected within each act of Congress, including those acts pursuant to the Budget Control Act of 2011.

## II. Land Restoration

The Supreme Court's 2009 decision in *Carcieri v. Salazar* was the first broad stroke challenging the Department of Interior's (DOI) land into trust authority by reinterpreting the language of the Indian Reorganization Act of 1934 (IRA). Prior to this decision, Republican and Democratic administrations alike have interpreted the IRA to authorize the DOI to place land into trust for all federally recognized Indian tribes. Subsequently this July, during House consideration of Interior appropriations, there were several legislative attempts to diminish the right of all federally recognized tribes to reacquire land into trust for essential government services and economic development projects.

Congress must stand firm against any legislation intended to diminish Indian tribes' ability to acquire land for the provision of services and programs to their membership. Also, the Secretary of Interior's authority to take land into trust for all federally recognized tribes in the United States must be fully restored. Tribes are united in the belief that once a tribe completes the federal recognition process and is listed on the Federal Register as an "Indian Entit[y] Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," then they should receive the same trust responsibility as all other tribes listed above or below it; no lesser nor greater duty is implied through federal recognition. Furthermore, land and sovereignty are coinciding principles to any governing nation and must be upheld in any legislation concerning land acquisition by Indian tribes.

## III. Protecting Native Women

In July, DOJ proposed legislation to include within this year's reauthorization of the Violence Against Women Act (VAWA). The proposed language seeks to address prosecutorial gaps in combating the epidemic rates of violence and abuse perpetrated against American Indian and Alaska Native women. According to a nationwide study conducted by the National Institute of Justice (NIJ), one third of all American Indian women will be raped during their lifetimes. Citing this statistic and a host of other equally discerning facts, DOJ proposed legislation which will:

- Recognize participating tribes' concurrent criminal jurisdiction to prosecute and sentence both Indians and non-Indians who assault Indian spouses, intimate partners or dating partners, or who violate protection orders in Indian Country, subject to necessary protection of constitutional rights for all defendants.
- Clarify that tribal courts have full civil jurisdiction to issue and enforce certain protection orders against both Indians and non-Indians
- Amend the Federal Criminal Code to provide a ten-year offense for certain types of assaults involving a spouse, intimate partner, or dating partner.

These provisions are critical to empowering tribes to protect their own communities. Also, American Indian and Alaska Native women routinely subjected to cycles of violence will develop confidence and trust that they will be protected by law enforcement personnel within their own communities and those near and accessible to their homes. We urge Congress to take action in moving this legislation forward at the appropriate time.