



*Indian Country  
FY 2022 Budget Request*

# Restoring Promises

A PUBLICATION OF THE NATIONAL CONGRESS OF AMERICAN INDIANS





National  
Congress of  
American  
Indians



**About this publication:** The Indian Country Budget Request report is published annually by the National Congress of American Indians as part of its mission to serve as a forum for unified policy development among tribal nations in order to: (1) protect and advance tribal governance and treaty rights; (2) promote economic development and health and welfare in American Indian and Alaska Native communities; and (3) educate the public toward a better understanding of American Indian and Alaska Native tribal nations. The Fiscal Year 2022 report is the fifteenth annual Indian Country Budget Request issued by the National Congress of American Indians.

**About the seal:** The seal developed for the Indian Country Budget Request Report represents the nation-to-nation relationship between tribal nations and the United States government. The twelve stars symbolize the twelve areas represented by the National Congress of American Indians. The image of the U.S. Capitol is a reminder of the federal government's trust responsibility. Finally, the feather invokes the cultural values of Native people, tribal governments, and the written laws that affirm tribal sovereignty.

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# FISCAL YEAR 2022 INDIAN COUNTRY BUDGET REQUEST: **Restoring Promises**

## **Executive Summary**

This Fiscal Year (FY) 2022 Budget Request outlines federal programs and services that are critical components of strong tribal governments, economies, and communities. The programs highlighted in this document are an integral part of fulfilling the federal government's treaty and trust obligations. They have been identified by experts from across the country and through federal budget formulation processes between tribal leaders and federal agencies.

A section on supplemental appropriations in response to COVID-19 is included in this year's publication. While pandemic response legislation has included Indian Country, the duration and severity of the COVID-19 pandemic necessitates significantly more resources to protect and preserve human life and address the grave social and economic impacts faced by tribal nations as they close government operations and tribal enterprises to protect the health of their citizens and surrounding communities.

### **RESTORING PROMISES**

Tribal nations seek only those things promised to them and their citizens by the solemn treaties and agreements reached between tribal nations and the United States. Tribal nations paid in full for the federal promises exchanged when they ceded millions of acres of land that made the United States what it is today. Tribal nations are resilient and have demonstrated their resolve and dedication since time immemorial; however, tribal nations are uniquely reliant on the federal government to fulfill the promises made in exchange for the land that is the foundation of the bounty and wealth of the United States.

The federal trust responsibility, one of the most important doctrines in federal Indian law, derives from the treaties between tribal nations and the U.S. government. It is the obligation of the federal government, including all of its branches and agencies, to protect tribal self-governance, tribal lands, assets, resources, and treaty rights, and to carry out the directions of



federal statutes and court cases. The Supreme Court has defined this trust responsibility as a “moral obligation of the highest responsibility and trust” (Seminole Nation v. United States, 1942).

Funding this trust responsibility is critical to the fulfillment of the fiduciary relationship of the United States with tribal nations. This funding supports the express support of the United States for tribal self-determination and self-governance, which is critical to redressing the socio-economic disparities experienced by American Indians and Alaska Natives (AI/ANs). In support of this collective goal, tribal nations call for the inclusion of the following recommendations in FY 2022 appropriations.

## SUPPORT FOR TRIBAL GOVERNMENTS

(MORE INFORMATION ON PAGE 34)

Ensuring tribal nations have the tools and resources for effective governance is critical to fulfilling the promise of the Indian Self-Determination and Education Assistance Act (P.L. 93-638) (ISDEAA). ISDEAA promotes self-determination and self-governance and supports the United States’ trust and treaty obligations by authorizing tribal nations to enter into contracts and compacts with the federal government to operate their “shares” of certain federal programs. These tribal shares of federal programs make up the “base funding” for tribal governments and provide certainty and security to those governments. Congress must support tribal self-determination through the following actions: increase tribal base funding; directly fund tribal nations rather than passing funds through states; increase formula based funding rather than competitive grants which are difficult to access; and support accurate data collection to enable funding to address the needs of Indian Country. Additionally, funding for Section 105(l) lease agreements must be provided through mandatory spending that does not affect discretionary spending caps on tribal programs.

### *Support Tribal Governments*

| Agency                           | Appropriations Bill   | Program                                | NCAI FY 2022 Request   |
|----------------------------------|---|--|--|
| Department of the Interior (DOI) | Interior, Environment, and Related Agencies (Interior, Environment) | Indian Affairs                         | Require Indian Affairs to put forward an estimate of the full unmet obligations within each program under the Operation of Indian Programs |
| Government-wide                  | All Appropriations Bills  |  | Provide support to tribal governments through recurring, base funding instead of through competitive grants                                |
| DOI/Indian Health Service (IHS)  | Interior, Environment   | ISDEAA Section 105(l) Lease Agreements | Provide such sums as may be necessary through mandatory spending   |
| DOI/IHS                          | Interior, Environment   | ISDEAA Contract Support Costs          | Provide such sums as may be necessary through mandatory spending   |
| Government-wide                  | All Appropriations Bills  | Indian Affairs                         | Allow funding from departments and agencies outside of Indian Affairs to be administered through existing ISDEAA funding agreements        |



## PUBLIC SAFETY & JUSTICE

(MORE INFORMATION ON PAGE 41)

The public safety problems that plague tribal communities result from decades of gross underfunding of tribal criminal justice systems, jurisdictional complexities, and the federal government's historic failure to fulfill its public safety obligations on tribal lands. Residents and visitors on tribal lands deserve the safety and security that is taken for granted outside of Indian Country. Congress has taken steps in recent years with the passage of the Tribal Law and Order Act in 2010 and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) to begin to structurally address public safety barriers in tribal communities. However, these laws must be fully executed for the promise of these laws to be fully realized. Implementation cannot occur without sufficient resources for tribal justice systems. Increased and targeted funding in the following program areas will significantly impact safety in tribal communities.

### *Public Safety & Justice*

| Agency | Appropriations Bill        | Program   | NCAI FY 2022 Request          |
|--------|----------------------------|---|-------------------------------|
| DOI    | Interior, Environment      | Bureau of Indian Affairs (BIA) Tribal Courts Tribal Priority Allocations (TPA), including courts in Public Law 83-280 jurisdictions | \$123 million                 |
| DOI    | Interior, Environment      | BIA Law Enforcement, Criminal Investigations, Police Services, and Detention/Corrections  | \$527.4 million               |
| DOJ    | Commerce, Justice, Science | Office of Justice Programs (OJP)  | Ten percent tribal set-aside  |
| DOJ    | Commerce, Justice, Science | Crime Victims Fund  | Five percent tribal set-aside |
| DOJ    | Commerce, Justice, Science | Tribal Youth Program under the Juvenile Accountability Block Grants Program   | \$25 million                  |
| DOJ    | Commerce, Justice, Science | Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance (TCCLA) Grant Program                                 | \$3 million                   |
| DOJ    | Commerce, Justice, Science | Community Oriented Policing Services (COPS) Tribal Law Enforcement  | \$52 million                  |
| DOJ    | Commerce, Justice, Science | Violence Against Women Act (VAWA), tribal set-aside   | \$5 million                   |
| DOJ    | Commerce, Justice, Science | Indian Country Sexual Assault Clearinghouse   | \$500 thousand                |



## HOMELAND SECURITY & EMERGENCY SERVICES

(MORE INFORMATION ON PAGE 47)

Department of Homeland Security (DHS) outreach and communication to Indian Country has increased over the years due to the work of DHS tribal affairs staff. Yet, funding has stagnated for the past ten years, which has impacted the ability of tribal nations to develop capacity equal to the states for homeland security and emergency management. This underfunding threatens the safety and security of Indian Country and the United States. Congress and the Administration have a trust obligation to support tribal homeland security and emergency management needs and development. However, this obligation has not been met, as shown in the recent report by the U.S. Commission on Civil Rights. This report demonstrates the extreme shortfalls in programs that have a direct bearing on homeland security and emergency management. For instance, one of the report's case studies identifies the lack of adequate housing on the Pine Ridge reservation.<sup>1</sup> In 2018, the Federal Emergency Management Agency (FEMA) denied federal disaster assistance to the Oglala Sioux to meet basic tribal housing needs following a major winter storm due to an arbitrary FEMA monetary threshold. Tribal officials accept their duty to do their best to protect everyone in their jurisdictions despite these funding shortfalls. In many cases, the first and only responders to natural disasters and national threats are individuals employed by tribal nations. Until parity is achieved, tribal communities will be unable to fully participate in the national homeland security strategies and will continue to unnecessarily and unfairly be a weak link in protecting vital infrastructure from domestic and international terrorist attacks, natural disasters, and related threats. These funding shortfalls for tribal nations place all Americans at risk.

### *Homeland Security & Emergency Services*

| Agency   | Appropriations Bill | Program   | NCAI FY 2022 Request |
|----------|---------------------|---|----------------------|
| DHS      | Homeland Security   | Tribal Homeland Security Grant Program  | \$40 million         |
| DHS      | Homeland Security   | Tribal Resiliency Continuity Program  | \$206.64 million     |
| DHS      | Homeland Security   | Creation of National Tribal Advisory Council  | \$2 million          |
| DHS      | Homeland Security   | Creation of COVID-19 After-Action Evaluation and Reports on the Federal Response in Indian Country                      | \$2 million          |
| DHS      | Homeland Security   | Western Hemisphere Travel Initiative, Tribal IDs  | \$10 million         |
| DHS-FEMA | Homeland Security   | Emergency Management Institute, Tribal Emergency Management Training  | \$1 million          |
| DHS      | Homeland Security   | Tribal Cultural Sensitivity Training for DHS personnel  | \$10 million         |
| DHS-FEMA | Homeland Security   | Tribal Emergency Management Assistance, Compact Development, and Management   | \$4 million          |
| DHS      | Homeland Security   | Homeland Security and Emergency Management Curriculum at Tribal Colleges and Universities (TCUs) and Tribal Non-Profits | \$3 million          |



|     |                       |  |             |
|-----|-----------------------|--|-------------|
| DHS | Homeland Security     | Tribal Homeland Security Centers of Excellence                           | \$2 million |
| DHS | Homeland Security     | Tribal Cyber Security Resilience   | \$5 million |
| DHS | Homeland Security     | FEMA National Response and Coordination Center, Staffing the Tribal Desk | \$2 million |
| DOI | Interior, Environment | BIA Disaster Response Coordinating Structure                             | \$4 million |

## EDUCATION

(MORE INFORMATION ON PAGE 55)

Access to quality education is critical for creating jobs and securing the nation's future prosperity particularly in tribal communities. An educated tribal citizenry serves as a catalyst to boost tribal economic productivity and growth through a more highly-skilled competitive workforce which can attract new businesses, reduce high unemployment, stimulate reservation economies through direct spending, and foster a greater entrepreneurial spirit among all tribal citizens to become more self-sufficient. Education cultivates personal growth and wellness, which in turn enhances social welfare and cohesion and strengthens tribal communities since all are essential to protecting and advancing tribal sovereignty.

Extensive evidence confirms that tribal culture-based resources and opportunities in the classroom provide AI/AN students with the critical skills and knowledge they need to lead communities in the 21st century. AI/AN students must have ample local access to quality educational opportunities. To give tribal nations an essential foundation for economic growth and prosperity, the federal government must fulfill its trust and treaty responsibilities to give tribal nations an essential foundation for economic growth and prosperity by adequately funding quality Native education and strengthening tribal self-determination in education. The requests below detail the minimum funding needed to improve the educational system that is currently struggling and underfunded.

### Education

| Agency                  | Appropriations Bill   | Program   | NCAI FY 2022 Request |
|-------------------------|---|---|----------------------|
| Dept. of Education (ED) | Labor, Health and Human Services (HHS), Education, and Related Agencies (Labor, HHS, Education) | Every Student Succeeds Act (ESSA) Local Education Agency Grants (Title I, Part A) | \$20 billion         |
| ED                      | Labor, HHS, Education   | ESSA Student Assessment Maintenance   | \$20 million         |
| ED                      | Labor, HHS, Education   | State-Tribal Education Partnership (STEP) Program                                 | \$5 million          |
| ED                      | Labor, HHS, Education   | ESSA Impact Aid Funding (Title VII)   | \$2 billion          |
| ED                      | Labor, HHS, Education   | ESSA Indian Education Formula Grants (Title VI, Part A, Subpart 1)                | \$198 million        |

|     |                       |  |                  |
|-----|-----------------------|--|------------------|
| ED  | Labor, HHS, Education | ESSA Alaska Native Education Equity Assistance Program (Title VI, Part C)  | \$44 million     |
| ED  | Labor, HHS, Education | ESSA Native Hawaiian Education Program (Title VI, Part B)  | \$44 million     |
| ED  | Labor, HHS, Education | ESSA Indian Education National Activities (Title VI, Part A, Subpart 3)  | \$13 million     |
| ED  | Labor, HHS, Education | ESSA Special Projects for Native Students, Including Native Youth Community Projects (Title VI, Part A, Subpart 2)       | \$68 million     |
| ED  | Labor, HHS, Education | Higher Education Act, Strengthening Institutions, Discretionary and Mandatory Grants (Title III, A & F)                  | \$75 million     |
| ED  | Labor, HHS, Education | Tribally Controlled Post-Secondary Career and Technical Institutions   | \$15 million     |
| ED  | Labor, HHS, Education | Tribal Education Departments   | \$10 million     |
| DOI | Interior, Environment | Tribal Education Departments   | \$10 million     |
| DOI | Interior, Environment | Bureau of Indian Education (BIE), Education Construction   | \$1 billion      |
| DOI | Interior, Environment | Tribal Colleges and Universities (TCUs) Infrastructure Improvement   | \$525 million    |
| DOI | Interior, Environment | Johnson O'Malley Program (TPA)   | \$230 million    |
| DOI | Interior, Environment | Student Transportation   | \$73 million     |
| DOI | Interior, Environment | Tribal Grant Support Costs (Administrative Cost Grants)  | \$90 million     |
| DOI | Interior, Environment | BIE, Facilities Operations   | \$109 million    |
| DOI | Interior, Environment | BIE, Facilities Maintenance  | \$725 million    |
| DOI | Interior, Environment | Indian School Equalization Formula   | \$473 million    |
| DOI | Interior, Environment | Education Management: Education IT   | \$120 million    |
| DOI | Interior, Environment | BIE Immersion Demonstration Grants   | \$5 million      |
| DOI | Interior, Environment | Juvenile Detention Education   | \$620 thousand   |
| DOI | Interior, Environment | TCU Institutional Operations (Titles I, II, and III of the Tribally Controlled Colleges and Universities Assistance Act) | \$93.257 million |



|                                   |                                |   |   |
|-----------------------------------|--------------------------------|---|---|
| DOI                               | Interior, Environment          | Institute of American Indian Arts and Center for Lifelong Education & Museum (AIANNH Culture and Art Development Act) | \$10.71 million                                 |
| DOI                               | Interior, Environment          | Haskell Indian Nations University & Southwestern Indian Polytechnic Institute (Snyder Act)                            | \$28 million                                    |
| Dept. of Agriculture (USDA)       | Agriculture                    | 1994 Institutions Extension Program (NIFA)  | \$10 million                                    |
| USDA                              | Agriculture                    | 1994 Institutions Research Program  | \$5.8 million                                   |
| USDA                              | Agriculture                    | 1994 Institutions Educational Equity Grants   | \$6 million                                     |
| USDA                              | Agriculture                    | Native American Endowment Account (Corpus Payment)  | \$17 million                                    |
| USDA                              | Agriculture                    | TCU Essential Community Facilities Program  | \$10 million                                    |
| USDA                              | Agriculture                    | TCU Broadband/IT Infrastructure Fund (Rural Utilities Service)  | \$24 million                                    |
| HHS                               | Labor, HHS, Education          | Indian Head Start Program   | \$10.81 billion                                 |
| HHS                               | Labor, HHS, Education          | TCU Head Start Partnership Program  | \$8 million                                     |
| HHS                               | Labor, HHS, Education          | Native Languages Preservation (NLP), with Esther Martinez Program (EMP)   | \$15 million for NLP, with \$13 million for EMP |
| DOE                               | Energy and Water               | Academic Alliances/Minority Serving Institutions Partnership Program, TCU Program                                     | \$5 million                                     |
| National Science Foundation (NSF) | Commerce, Justice, and Science | Education and Human Resources Funding for TCUs  | \$20 million                                    |

## HEALTHCARE

(MORE INFORMATION ON PAGE 69)

The survival and prosperity of tribal communities depend on the safety, health, and wellness of their citizens. The federal promise to provide healthcare for our people is a sacred agreement that was provided by the United States to tribal nations in exchange for land and peace. However, AI/ANs have long experienced significant health disparities when compared with other Americans. As stated in the Broken Promises Report: Continuing Federal Funding Shortfall for Native Americans released in December 2018 by the U.S. Commission on Civil Rights, “Due at least in part to the failure of the federal government to adequately address the of Native Americans over the last two centuries, Native Americans continue to rank near the bottom of all Americans in health, education, and employment outcomes.”<sup>2</sup> Devastating consequences from historical trauma, poverty, and a lack of adequate treatment resources continue to plague tribal communities.

The Indian Health Service (IHS) is a critical institution in securing the health and wellness of tribal communities. Tribal leaders on the National Tribal Budget Formulation Workgroup (TBFWG) representing all twelve IHS Areas met on February 13-14, 2020 to develop the national IHS budget recommendations for the FY 2022 budget year. The National Indian Health Board (NIHB) provided the budget priorities highlighted below, which are consistent with TBFWG’s recommendations. For additional information on NIHB budget priorities, please contact Carolyn Angus-Hornbuckle, Esq., Chief Operating Officer, at [chornbuckle@nihb.org](mailto:chornbuckle@nihb.org).

### Healthcare

| Agency | Appropriations Bill   | Program   | NCAI FY 2022 Request  |
|--------|-----------------------|---|---|
| HHS    | Interior, Environment | Total FY 2022 Indian Health Service Funding   | Total Base: \$12.759 billion<br>Services: \$9.674 billion<br>Contract Support Costs: \$1.067 billion<br>Facilities: \$2.017 billion |
| HHS    | Labor, HHS, Education | On the TRAIL to Diabetes Prevention program   | \$1.5 million   |
| HHS    | Labor, HHS, Education | Health Resources and Services Administration (HRSA) Native Hawaiian Health Care Systems Program | At least \$30 million   |



# CHILD WELFARE

(MORE INFORMATION ON PAGE 74)

Tribal child welfare programs are comprised of a number of discrete yet interconnected functions that include child abuse prevention, child protection, in-home services, case management, foster care, kinship care, guardianship, adoption, court hearings, coordination and collaboration, and referrals to other services such as healthcare or housing. Tribal child welfare programs work tirelessly to serve children and families through holistic, strengths-based, culturally responsive, and family-centered services. Additionally, tribal nations serve a critical role not only for tribal citizens living within their tribal lands, but also play an essential role in helping state agencies provide services to tribal citizens living off tribal lands. The assistance tribal nations provide in this manner reduces state costs and administrative burdens.<sup>3</sup>

Investing in tribal services can reach children and their families before or shortly after child abuse or neglect has occurred and can help curtail the pervasive effects of long term, unresolved trauma that can create increasing physical and emotional damage for children and create higher treatment costs for tribal governments and the federal government. Child welfare families have extensive needs, which requires intensive collaboration with other service providers and specialized services to effectively address child maltreatment and help families rehabilitate. Although important, the current federal investment in child welfare for both tribal nations and states has been limited in scope and heavily weighted towards crisis interventions that do not work well to prevent abuse and neglect from occurring or re-occurring. These crisis services also utilize some of the most expensive types of child welfare services, such as out-of-home placement.

Recent changes in federal law provide an opportunity to create more balance in the federal child welfare finance system by providing new funding for prevention services for tribal nations and states. Funding under the Bipartisan Budget Act of 2018 supports eligible prevention services to avert the removal of children who were at risk of out-of-home placement. Accessing these funds requires many tribal nations to develop new prevention services and infrastructure in child welfare. This investment can help spur reductions in out of home placements, reduce trauma to children and families. However, achieving these goals will require additional funding in FY 2022 outside of these new prevention funds.

Congress has unequivocally recognized that there is nothing “*more vital to the continued existence and integrity of Indian tribes than their children.*”<sup>4</sup> Therefore, Congress must produce a budget that empowers tribal nations to provide programs and services necessary to safeguard their children and strengthen their families. The recommendations below suggest funding increases that would provide tribal nations with more workable funding levels after years of little or no increases and improve outcomes for AI/AN children and families in tribal or state systems.

## Child Welfare

| Agency | Appropriations Bill   | Program  | NCAI FY 2022 Request |
|--------|-----------------------|--|----------------------|
| DOI    | Interior, Environment | BIA, Indian Child Protection and Family Violence Prevention Act Programs | \$93 million         |
| DOI    | Interior, Environment | BIA, Welfare Assistance (TPA)  | \$100 million        |
| DOI    | Interior, Environment | BIA, Human Services Tribal Design (TPA), Tiwahe Initiative               | \$500 thousand       |

|     |                       |   |  |
|-----|-----------------------|---|--|
| DOI | Interior, Environment | Indian Child Welfare Act (TPA)  | \$30 million   |
| DOI | Interior, Environment | Social Services (TPA).  | \$70 million   |
| HHS | Labor, HHS, Education | Promoting Safe and Stable Families, Social Security Act (SSA), Title IV-B, Subpart 2 (discretionary portion) (3 percent tribal set-aside)                             | \$120 million total<br>(\$3.6 million tribal set-aside)                    |
| HHS | Labor, HHS, Education | Promoting Safe and Stable Families, Tribal Court Improvement Grant Program  | \$5 million  |
| HHS | Labor, HHS, Education | Innovative Evidence-Based Community Prevention Program  | \$40 million   |
| HHS | Labor, HHS, Education | Community-Based Child Abuse Prevention  | \$100 million  |
| HHS | Labor, HHS, Education | Child Welfare Services Program (SSA, Title IV-B, Subpart 1)   | \$350 million  |
| HHS | Labor, HHS, Education | Maternal Infant and Early Childhood Home Visiting Program   | \$420 million total<br>(\$12.6 million tribal set-aside)                   |
| HHS | Labor, HHS, Education | Substance Abuse and Mental Health Services Administration (SAMHSA) Programs of Regional and National Significance, Child and Family Programs (Circles of Care grants) | \$8 million<br>(\$6.5 million reserved for tribal Circles of Care program) |
| HHS | Labor, HHS, Education | SAMHSA Garrett Lee Smith Grants, State/Tribal Youth Suicide Prevention and Early Intervention Grant   | \$50 million   |
| HHS | Labor, HHS, Education | SAMHSA Garrett Lee Smith Grants, Campus Suicide Prevention Program  | \$9 million  |
| HHS | Labor, HHS, Education | SAMHSA American Indian and Alaska Native Suicide Prevention   | \$20 million   |
| HHS | Labor, HHS, Education | SAMHSA Tribal Behavioral Health Programs (Mental Health and Substance Abuse programs)   | \$50 million<br>(\$25 million for each program)                            |
| HHS | Labor, HHS, Education | Children's Mental Health Initiative -Systems of Care  | \$135 million  |



## ELDERS

(MORE INFORMATION ON PAGE 85)

Elders are our culture bearers and are held in the highest regard in tribal communities. However, these same elders in Indian Country comprise the most economically disadvantaged elderly minority group in the nation.<sup>5</sup> Tribal nations have little or no access to the agencies, departments, ombudsman, or programs available to states for elder services. State programs seldom serve Native elders due to cultural and geographic barriers. Tribal nations have a history of strong program management and resourceful use of program dollars despite being insufficiently funded to meet existing elder needs in tribal communities. Increased and dedicated funding is needed to address these disparities and build on tribal successes.

### *Elders*

| Agency | Appropriations Bill   | Program  | NCAI FY 2022 request  |
|--------|-----------------------|--|---|
| HHS    | Labor, HHS, Education | Older Americans Act (Title VI- Part A, B), Native American Nutrition and Supportive Services | \$43 million  |
| HHS    | Labor, HHS, Education | Older Americans Act (Title VI-Part C), Native American Caregiver Support Program             | \$12.5 million  |
| HHS    | Labor, HHS, Education | Older Americans Act (Title VII-Subtitle B), Protection of Vulnerable Older Americans         | Five percent tribal set-aside and make tribal nations and tribal organizations eligible for the Elder Justice Initiative under §§1397-1397f, subchapter XX, chapter 7, Title 42 |
| HHS    | Labor, HHS, Education | Older Americans Act (Title V), Senior Community Service Employment Program                   | \$434.4 million   |

## DISABILITIES

(MORE INFORMATION ON PAGE 87)

AI/AN people have the highest rate of disabilities, yet have the lowest opportunity to access critically important programming.<sup>6</sup> AI/ANs with disabilities deserve comprehensive care that includes access to culturally sensitive programs and quality resources. State-led and non-tribal programs contain multiple barriers for individuals with disabilities living on or near reservations and villages, including a lack of cultural awareness, research, accommodations, and opportunities. Services needed by individuals with disabilities range and overlap with the need for transportation, home modification, long-term services and supports, and other crucial support services.

Programs specifically for tribal nations, like the American Indian Vocational Rehabilitation Services (AIVRS) program, ensure that accessible opportunities such as employment are available to AI/ANs with disabilities. However, these programs currently do not receive enough funding to support all of the programming and outreach required to serve individuals with disabilities, which leaves them without access to essential resources.

### Disabilities

| Agency | Appropriations Bill   | Program  | NCAI FY 2022 Request |
|--------|-----------------------|--|----------------------|
| HHS    | Labor, HHS, Education | Vocational Rehabilitation Services, American Indian Vocational Rehabilitation Services Program, tribal set-aside | \$76 million         |

## ECONOMIC & WORKFORCE DEVELOPMENT

(MORE INFORMATION ON PAGE 89)

Creating economic and workforce development opportunities in Indian Country requires a comprehensive and multi-agency approach. Indian Country continues to face daunting challenges including high rates of unemployment and poverty, which primarily stem from longstanding shortfalls in federal funding obligations and unnecessary barriers to private and philanthropic investments on tribal lands. Adequate federal funding, coupled with reduced regulatory burdens, will empower tribal nations' efforts to develop robust, sustainable economies through increased access to capital resources and programs designed to train their workforces. The FY 2022 budget requests seek appropriation levels that are essential to ensure the federal government honors its trust responsibility to support tribal nations as they work to seed economic prosperity and increase job opportunities across their tribal communities and prepare their citizens to take advantage of those opportunities.

### Economic & Workforce Development

| Agency                              | Appropriations Bill        | Program  | NCAI FY 2022 Request   |
|-------------------------------------|----------------------------|--|--|
| Dept. of Commerce (DOC)             | Commerce, Justice, Science | Minority Business Development Agency, Native American Business Development                         | \$52 million, with grant set-aside for Native business assistance                                  |
| DOC                                 | Commerce, Justice, Science | Office of Native American Business Development   | \$5 million  |
| Small Business Administration (SBA) | Financial Services         | Office of Native American Affairs  | \$5 million  |
| Dept. of Defense (DOD)              | Defense                    | Procurement Technical Assistance Program, American Indian Procurement Technical Assistance Program | \$5 million  |
| DOD                                 | Defense                    | Indian Incentive Payment Program – Mandatory Funding   | \$25 million   |
| Treasury                            | Financial Services         | Community Development Financial Institutions Fund  | \$30 million with no non-federal matching requirements for Native American CDFI Assistance Program |

|                      |                       |  |   |
|----------------------|-----------------------|--|---|
| Treasury             | Financial Services    | Community Development Financial Institutions Fund, New Markets Tax Credit Program  | Ten percent set-aside and revise 'service area' to include Indian Country                       |
| DOE                  | Energy and Water      | National Nuclear Security Administration (NNSA) Minority Serving Institutions Partnership Program (MSIPP) Tribal College Initiative (Advanced Manufacturing) | \$5 million   |
| DOI                  | Interior, Environment | Office of Indian Energy and Economic Development, Indian Loan Guarantee Program  | \$25 million  |
| DOI                  | Interior, Environment | Office of Indian Energy and Economic Development   | \$25 million, with \$8 million set-aside for Native American Business Incubators Program grants |
| DOI                  | Interior, Environment | Community Development Program, Native American Business Development Institute  | \$2.5 million   |
| HHS                  | Labor, HHS, Education | Administration on Native Americans (ANA) Social and Economic Development-Related Grants  | \$40 million  |
| Dept. of Labor (DOL) | Labor, HHS, Education | YouthBuild Program   | \$107 million   |
| DOL                  | Labor, HHS, Education | Employment and Training Administration, Indian and Native American Program (INAP)  | \$60.5 million  |
| DOL                  | Labor, HHS, Education | Native American Employment and Training Council  | \$250 thousand from non-INAP resources  |

## TELECOMMUNICATIONS

(MORE INFORMATION ON PAGE 98)

Tribal communities are among the most underserved populations in the nation with respect to broadband deployment.<sup>7</sup> Congress must create a Tribal Broadband Fund in order to empower new market opportunities and direct spending in Indian Country for its highest and best purpose. The Federal Communications Commission's (FCC) Office of Native Affairs and Policy states that, "[u]nderstanding the complexity of the digital divide in Indian Country requires an appreciation of the unique challenges facing Tribal Nations, which include deployment, adoption, affordability, and access to spectrum, as well as lack of investment dollars and access to credit and start-up or gap financing."<sup>8</sup> The ability for tribal nations to obtain credit and financing is limited by the difficulty in collateralizing assets held in trust by the federal government, coupled with the difficulty accessing investment dollars for use in tribal communities.<sup>9</sup> The creation of a Tribal Broadband Fund will promote education, economic opportunity, health, public safety, and governance in tribal communities, which continue to be the most unserved and underserved populations in the United States with respect to broadband deployment.



To address the digital divide in Indian Country, Congress must also create an interagency committee that focuses on the existing challenges in Indian Country with representation from the FCC’s Wireless and Wireline Bureaus, USDA’s Rural Utilities Service, DOC’s National Telecommunications and Information Administration, and DOI’s Office of the Assistant Secretary for Indian Affairs. This committee’s goal should be to report on how to best coordinate federal resources from the various agencies to achieve broadband connectivity in Indian Country. This recommendation is consistent with the FCC’s National Broadband Plan, which recommends that “Congress should consider establishing a Tribal Broadband Fund to support sustainable broadband deployment and adoption on Tribal lands, and all federal agencies that upgrade connectivity on tribal lands should coordinate such upgrades with Tribal governments and the Tribal Broadband Fund grant-making process.”<sup>10</sup>

#### Telecommunications

| Agency                                    | Appropriations Bill   | Program   | NCAI FY 2022 Request |
|---|-----------------------|---|----------------------|
| FCC                                       | Financial Services    | Tribal Broadband Fund   | \$1 billion          |
| FCC                                       | Financial Services    | Office of Native Affairs and Policy                                     | \$1.5 million        |
| Corporation for Public Broadcasting (CPB) | Labor, HHS, Education | American Indian and Alaska Native Public Radio Community Service grants | \$5 million          |
| CPB                                       | Labor, HHS, Education | Native Public Media   | \$500 thousand       |
| CPB                                       | Labor, HHS, Education | Koahnic Broadcast Corporation   | \$500 thousand       |

## AGRICULTURE & RURAL DEVELOPMENT

(MORE INFORMATION ON PAGE 101)

Agriculture is a major economic, employment, and nutrition sector in Indian Country. In 2017, at least 79,198 American Indian farm and ranch operators were on more than 59 million acres of land. These farms and ranches sold \$3.5 billion of agricultural products including more than \$1.4 billion of crops and \$2.1 billion of livestock and poultry. As a result of the huge agricultural footprint across Indian Country and the fact that more than 35 percent of AI/ANs live in rural communities, tribal governments and farmers look to active partnerships throughout the U.S. Department of Agriculture to sustain and advance common interests across the broad array of services that this federal agency provides to tribal governments.

#### Agriculture & Rural Development

| Agency | Appropriations Bill | Program                    | NCAI FY 2022 Request |
|--------|---------------------|----------------------------|----------------------|
| USDA   | Agriculture         | Office of Tribal Relations | \$1.5 million        |
| USDA   | Agriculture         | Rural Development          | \$3.4 billion        |

|      |             |   |  |
|------|-------------|---|--|
| USDA | Agriculture | Rural Utilities Service   | \$980.624 million  |
| USDA | Agriculture | Rural Housing and Community Facilities Programs   | \$29 billion   |
| USDA | Agriculture | Natural Resources Conservation Service (NRCS), Environmental Quality Incentives Program | \$1.75 billion   |
| USDA | Agriculture | NRCS, Conservation Stewardship Program  | \$725 million  |
| USDA | Agriculture | Federally Recognized Tribal Extension Program   | \$30 million   |
| USDA | Agriculture | Food Distribution Program on Indian Reservations (FDPIR)                                | \$200 million  |
| USDA | Agriculture | FDPIR, Traditional Foods Market Development   | \$5 million  |
| USDA | Agriculture | FDPIR, Demonstration Project for Tribal Organizations                                   | \$5 million  |
| USDA | Agriculture | Industrial Hemp Production, Regulation, and Research                                    | Amounts as necessary to implement authorizing provisions |

## ENVIRONMENTAL PROTECTION

(MORE INFORMATION ON PAGE 107)

Tribal nations and their citizens maintain strong physical, cultural, spiritual, and interdependent relationships with their homelands and natural resources. As a result, tribal communities face direct and often disproportionate impacts of environmental degradation. Federal funding to support environmental protection for tribal lands was not forthcoming until more than 20 years after the passage of the Clean Water and Clean Air Acts. Tribal nations are still trying to achieve equity, and significant gaps remain. The federal government must ensure tribal nations have fair and equal opportunities to preserve and enhance the environmental quality of Indian Country for present and future generations. In the recommendations below, NCAI requests that the Environmental Protection Agency (EPA) tribal programs receive sufficient resources to achieve parity with states through sustainable, targeted base funding.

## Environmental Protection

| Agency | Appropriations Bill   | Program   | NCAI FY 2022 Request            |
|--------|-----------------------|---|---------------------------------|
| EPA    | Interior, Environment | Indian Environmental General Assistance Program                     | \$100 million                   |
| EPA    | Interior, Environment | National Safe Drinking Water State Revolving Fund, tribal set-aside | Five percent tribal set-aside   |
| EPA    | Interior, Environment | National Clean Water Act State Revolving Fund, tribal set-aside     | Five percent tribal set-aside   |
| EPA    | Interior, Environment | Water Pollution Control Grants, tribal set-aside                    | Twenty percent tribal set-aside |
| EPA    | Interior, Environment | Nonpoint Source Pollutant Control, Clean Water Act Section 319      | \$13 million                    |
| EPA    | Interior, Environment | Exchange Network  | Ten percent tribal set-aside    |
| EPA    | Interior, Environment | Great Lakes Restoration Initiative, tribal set-aside                | \$17 million                    |

## NATURAL RESOURCES

(MORE INFORMATION ON PAGE 111)

Tribal nation cultures, traditions, lifestyles, communities, foods, and economies depend upon diverse natural resources to varying degrees. However, many critical natural resources are disappearing faster than they can be restored. Given the state of the economy, national priorities, and the increasing negative impacts of climate change, the vitality and sustainability of natural resources must be safeguarded; it is vital to the health of AI/AN peoples and the strength of their economies.

Tribal nations can cite numerous examples of spearheading successful restoration and sustainable management projects for threatened and fragile natural resources and ecosystems. Foundational to these successes is a commitment to stewardship based in traditional knowledge, which requires complicated yet rewarding collaboration with states, regional organizations, local governments, and other stakeholders.

Funding for BIA natural resource programs must increase to enable tribal nations to fully manage their natural resources through the establishment and maintenance of natural resource management programs. BIA programs represent a significant source of funding to protect tribal lands, and BIA's trust resource management practices should be modernized in a manner consistent with the Indian Trust Asset Reform Act (P.L. 144-178). Many of the BIA trust and natural resources programs discussed in this section have suffered substantial funding cuts over the past decade. The most supportive role the federal government can play is as a resource-provider that can facilitate independent, self-governed decision-making by tribal nations.



## Natural Resources

| Agency | Appropriations Bill        | Program   | NCAI FY 2022 Request   |
|--------|----------------------------|---|--|
| DOI    | Interior, Environment      | BIA, Rights Protection Implementation                             | \$60 million   |
| DOI    | Interior, Environment      | BIA, Tribal Climate Resilience Program                            | \$35 million   |
| DOI    | Interior, Environment      | BIA, Water Management, Planning, and Pre-Development Program      | \$10.5 million   |
| DOI    | Interior, Environment      | BIA, Water Resources Program (TPA)                                | \$12 million   |
| DOI    | Interior, Environment      | BIA, Water Rights Negotiation/ Litigation program                 | \$12 million   |
| DOI    | Authorization              | Bureau of Reclamation, Reclamation Water Settlement Fund          | Permanently Reauthorize  |
| DOI    | Interior, Environment      | BIA, Endangered Species Program                                   | \$4.5 million  |
| DOI    | Interior, Environment      | BIA, Tribal Management/Development Program                        | \$25 million   |
| DOI    | Interior, Environment      | BIA, Fish, Wildlife and Parks Projects, Fish Hatchery Operations  | \$7 million  |
| DOI    | Interior, Environment      | BIA, Fish, Wildlife and Parks Projects, Fish Hatchery Maintenance | \$8 million  |
| DOI    | Interior, Environment      | BIA, Wildlife and Parks Program (TPA)                             | \$10 million   |
| DOI    | Interior, Environment      | BIA, Natural Resources (TPA)                                      | \$12 million   |
| DOI    | Interior, Environment      | BIA, Invasive Species Program                                     | \$12 million   |
| DOI    | Interior, Environment      | Fish and Wildlife Service (FWS), Tribal Wildlife Grants Program   | \$12 million   |
| DOC    | Commerce, Justice, Science | Pacific Coastal Salmon Recovery Fund                              | \$110 million  |
| DOC    | Commerce, Justice, Science | NOAA Mitchell Act Hatchery Programs                               | \$25.9 million   |
| EPA    | Interior, Environment      | Geographic/Ecosystem Program in Puget Sound                       | \$50 million   |
| DOI    | Interior, Environment      | BIA Forestry (TPA and Forestry Projects)                          | \$140.8 million  |
| DOI    | Interior, Environment      | Office of Wildland Fire (OWF), Emergency Preparedness             | \$451 million  |
| DOI    | Interior, Environment      | Office of Wildland Fire, Fuels Management                         | \$250 million  |
| USDA   | Agriculture                | U.S. Forest Service (USFS)  | Encourage support for expanded Anchor Forest initiatives                     |
| USDA   | Agriculture                | USFS  | Make USFS implementation of the Tribal Forest Protection Act a priority      |
| USDA   | Agriculture                | USFS  | Appropriate additional funding to support P.L. 93-638 contracts for forestry |

## ENERGY

(MORE INFORMATION ON PAGE 122)

Tribal energy resources are vast, largely untapped, and critical to America's efforts to achieve energy security and independence, reduce greenhouse gases, and promote economic development both inside and outside of Indian Country. As part of a nation-wide commitment to a diversified approach to energy development, energy infrastructure is essential to many tribal nations' efforts to create jobs, build infrastructure, and improve their citizens' lives. DOI estimates that undeveloped traditional energy reserves on Indian lands could generate up to \$1 trillion for tribal nations and surrounding communities, most of which are located in rural areas. In 2014, DOI reported that Indian energy resources provided over \$1 billion in revenue to tribal nations and individual Indian resource owners.<sup>11</sup> This sector of tribal economic development continues to grow but remains relatively underdeveloped. Tribal nations need greater control over their energy management decisions to take the next steps in becoming serious contributors to their own and the United States' energy futures. One way to assist this goal is increased federal funding for tribal energy programs, particularly in areas where the cost of energy is at least 275 percent higher than the national average.

Three key components are critical to future tribal success in this arena. First, the federal government must remove economic barriers to growth. Specifically, NCAI requests that Congress reduce or eliminate the cost-sharing requirements that burden tribal nations where possible. Second, the federal government must continue its commitment to technical and financial assistance programs that support infrastructure development and the capacity of tribal programs and offices to carry out their responsibilities, including addressing staffing issues. Lastly, additional support is needed to bolster tribal workforces in the energy sector beyond the support provided by existing liaison employees within the Department of Energy (DOE).

### *Energy*

| Agency | Appropriations Bill   | Program  | NCAI FY 2022 Request |
|--------|---|--|----------------------|
| HHS    | Labor, HHS, Education   | Low Income Home Energy Assistance Program (LIHEAP), tribal set-aside | \$100 million        |
| DOE    | Energy and Water Development, and Related Agencies (Energy & Water) | Office of Indian Energy Policy and Programs                          | \$30 million         |
| DOE    | Energy and Water  | Tribal Energy Loan Guarantee Program (TELGP), Credit Subsidy Costs   | \$2.5 million        |
| DOE    | Energy and Water  | TELGP, Administrative Costs  | \$2 million          |

## HOUSING

(MORE INFORMATION ON PAGE 125)

The foundation of healthy tribal communities is access to safe, culturally relevant, and quality affordable housing. However, tribal communities still face some of the worst housing and living conditions in the United States. Sixteen percent of homes in tribal communities are overcrowded, which is roughly eight times the national average.<sup>12</sup> According to the U.S. Department of Housing and Urban Development (HUD), the number of overcrowded households, or households in Indian Country without

adequate kitchens or plumbing, grew by 21 percent between 2003 and 2015.<sup>13</sup> During that same period, the number of families in Indian Country with severe housing costs grew by 55 percent.<sup>14</sup> HUD explained in its 2017 Congressional Justifications that “the lack of housing and infrastructure in Indian Country is severe and widespread, and far exceeds the funding currently provided to [tribal nations].”<sup>15</sup>

The Native American Housing Assistance and Self-Determination Act (NAHASDA) is intended to help bridge the gap in housing needs in Native communities and allow tribal nations to exercise self-determination at the local level. NAHASDA have been successful in allowing tribal nations the self-determination necessary to provide effective programs for their citizens. NAHASDA effectively replaced the various Indian housing programs under the 1937 Housing Act and consolidated federal housing funds through direct block grants to tribal nations and their Tribally Designated Housing Entities (TDHEs). Tribal nations are now exercising their right of self-determination to design and implement their own housing and other community development infrastructure programs. NAHASDA resulted in the construction of tens of thousands of new housing units, and increased tribal capacity to address related infrastructure and economic development challenges. Today, there are close to 500 TDHEs in Indian Country. NAHASDA authorized several programs and activities that are in need of additional funding. These include the Indian Housing Block Grant, the Indian Community Development Block Grant, Sections 184 and 184A Guaranteed Loan Programs, Title VI Guaranteed Loan Program, and NAHASDA’s Training and Technical Assistance Funding. In addition to NAHASDA and other HUD programs, critical tribal housing funds are supported by programs within the U.S. Department of Veterans Affairs (VA), USDA, and DOI.

### Housing

| Agency | Appropriations Bill                               | Program  | NCAI FY 2022 Request |
|--------|---|--|----------------------|
| HUD    | Transportation, Housing & Urban Development (HUD) | Indian Housing Block Grant   | \$966 million        |
| HUD    | Transportation, HUD                               | Indian Community Development Block Grant   | \$100 million        |
| HUD    | Transportation, HUD                               | NAHASDA Title VI Loan Guarantee Program  | \$2 million          |
| HUD    | Transportation, HUD                               | Section 184 Loan Guarantee Program   | \$10 million         |
| HUD    | Transportation, HUD                               | Tribal HUD-Veterans Affairs Supportive Housing Program   | \$7 million          |
| HUD    | Transportation, HUD                               | NAHASDA Section 703 Training and Technical Assistance  | \$7 million          |
| USDA   | Agriculture                                       | Rural Development 502 Direct Loan Program for Tribal Relending Demonstration, tribal set-aside | \$50 million         |
| DOI    | Interior, Environment                             | BIA, Housing Program (TPA)   | \$23 million         |
| HUD    | Transportation, HUD                               | Native Hawaiian Housing Block Grant  | \$20 million         |
| HUD    | Transportation, HUD                               | Section 184A Loan Guarantee  | \$1 million          |
| VA     | Military Const., VA                               | Veterans Benefit Administration, Native American Direct Loan Program                           | \$11 million         |

# TRANSPORTATION

(MORE INFORMATION ON PAGE 130)

Transportation programs are critical to ensure tribal governments can provide for economic development, the social wellbeing of their tribal citizens, and the safety of non-tribal citizens who travel on tribal roads. Surface transportation in Indian Country involves hundreds of thousands of miles of roads and highways and hundreds of bridges. According to the latest National Tribal Transportation Facility Inventory (NTTFI), approximately 160,000 miles of roads and trails in Indian Country are owned and maintained by tribal nations, BIA, states, and counties. Tribal nations own and maintain 13,650 miles of roads and trails, of which only 1,000 (or 7.3 percent) are paved, with another 12,650 miles consisting of gravel, earth, or primitive materials. Of the 29,400 miles owned and maintained by the BIA, 75 percent are gravel, earth, or primitive. When combined, the roads owned and maintained by tribal nations and the BIA are among the most underdeveloped and unsafe road networks in the nation even though they are the primary means of access to AI/AN communities by Native and non-Native residents and visitors alike.

According to the December 2018 U.S. Commission on Civil Rights report evaluating the budgets and spending of federal agencies that administer Native programs, deficiencies in transportation system infrastructure in Indian Country diminishes opportunities for development, which further impairs the ability of tribal communities to thrive.<sup>16</sup> Unmet needs in transportation infrastructure increase the safety risks on roads used by tribal and non-tribal motorists and dampen the local and regional economies of the communities that rely on access to and use of roads and trails throughout Indian Country. Chronic underinvestment and the growing backlog of critical infrastructure projects negatively impact the social, physical, and mental wellbeing of tribal and neighboring communities and hampers the ability of tribal nations to fully leverage their economic potential and their citizens’ ability to fully participate in the American economy. Due to deficiencies in transportation funding for Indian Country, some of these infrastructure projects have been shovel-ready for years or even decades, yet remain unfunded due to transportation funding for Indian Country. Investment in tribal transportation infrastructure is an investment in American infrastructure that promotes commerce and public safety.

## Transportation

| Agency | Appropriations Bill   | Program                               | NCAI FY 2022 Request |
|--------|-----------------------|---------------------------------------|----------------------|
| DOT    | Transportation, HUD   | Tribal Transportation Program         | \$1 billion          |
| DOT    | Transportation, HUD   | Tribal Technical Assistance Programs  | \$5 million          |
| DOT    | Transportation, HUD   | Tribal Transit Program Formula Grants | \$75 million         |
| DOT    | Transportation, HUD   | Tribal High Priority Projects Program | \$50 million         |
| DOI    | Interior, Environment | BIA Road Maintenance (TPA)            | \$75 million         |



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## HISTORIC & CULTURAL PRESERVATION

(MORE INFORMATION ON PAGE 133)

Increasing federal funding for historic and cultural preservation programs remains a paramount priority for tribal nations. Funding is necessary to support the repatriation of sacred objects and ancestral remains, preservation of tribal cultures, and protection of sacred and historical tribal places. Preserving and protecting the histories, cultures, and traditions of tribal nations is also necessary for preserving America's history as a whole.

### *Historic & Cultural Preservation*

| Agency | Appropriations Bill   | Program   | NCAI FY 2022 Request |
|--------|-----------------------|---|----------------------|
| DOI    | Interior, Environment | National Park Service (NPS), Tribal Historic Preservation Officer Program | \$20 million         |
| DOI    | Interior, Environment | Native American Graves Protection and Repatriation Act (NAGPRA) Grants    | \$4 million          |



# FISCAL YEAR 2022 INDIAN COUNTRY Budget Requests

## Introduction

The National Congress of American Indians (NCAI) Fiscal Year (FY) 2022 Budget Request outlines federal programs and services that are critical components of strong tribal governments, economies, and communities. The programs highlighted in this document are an integral part of fulfilling the federal government's treaty and trust obligations. Experts from across the country and federal budget formulation processes between tribal leaders and federal agencies informed these funding requests.

Tribal nations are resilient and have demonstrated their resolve and dedication since time immemorial, yet are uniquely reliant on their federal partner to fulfill the promises made in exchange for the land that created the foundation of the United States. NCAI urges Congress and the Administration to work on a bipartisan basis during the FY 2022 appropriations cycle to help tribal nations ensure their communities and citizens' health, safety, and economic security.

A chapter on supplemental appropriations in response to the COVID-19 pandemic is included in this year's publication. While pandemic response legislation to date has included Indian Country, the duration and severity of the COVID-19 pandemic necessitates significantly more resources to protect and preserve human life. More resources are needed to address the grave social and economic impacts tribal nations face as they close government operations and tribal enterprises to protect the health of their citizens and surrounding communities.

### INDIAN COUNTRY COUNTS

According to 2019 U.S. Census Bureau population estimates, approximately 7 million AI/ANs live in the U.S.<sup>17</sup> The total AI/AN population estimate for 2019 exceeds that of 37 states for the same period.<sup>18</sup> Between 2010 and 2019, the AI/AN population

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grew at a rate more than twice that of the U.S. population as a whole (13.1 percent compared to 6.3 percent, respectively).<sup>19</sup> By 2060, the Census Bureau estimates that the AI/AN population is expected to grow to 10.1 million, representing 2.5 percent of the estimated total U.S. population.<sup>20</sup>

The total landmass under the control of tribal nations is about 100 million acres, and would make Indian Country the fourth largest state in the United States.<sup>21</sup> Nineteen tribal nations have a land base larger than the state of Rhode Island,<sup>22</sup> and 12 tribal nations have a land base larger than the state of Delaware.<sup>23</sup> Eleven of the 25 largest tribal law enforcement agencies serve jurisdictions covering more than 1,000 square miles, which is a larger land area than any city in the contiguous United States.<sup>24</sup> Forty tribal nations are within a 100-mile distance of the Canadian or Mexican borders or directly accessible by boat from the border.<sup>25</sup> Tribal lands share 260 miles of international borders, which is 100 miles longer than California's border with Mexico.<sup>26</sup>

## THE PROMISES MADE

Tribal nations seek only those things promised to them and their citizens by the solemn treaties and agreements reached between tribal nations and the United States. Tribal nations paid in full for the federal promises exchanged when they ceded millions of acres of land that made the United States what it is today. Tribal nations are resilient and have demonstrated their resolve and dedication since time immemorial; however, tribal nations are uniquely reliant on the federal government to fulfill the promises made in exchange for the land that created the foundation of the bounty and wealth of the United States.

The federal trust responsibility, one of the most important doctrines in federal Indian law, derives from the treaties between tribal nations and the U.S. government. It is the obligation of the federal government, including all branches and agencies, to protect tribal self-governance, tribal lands, assets, resources, and treaty rights, and to carry out the directions of federal statutes and court cases. The Supreme Court has defined this trust responsibility as a “moral obligation of the highest responsibility and trust” (*Seminole Nation v. United States*, 1942).

## BROKEN PROMISES

Tribal nations are assuming greater levels of governmental responsibility to meet their citizens' needs in culturally appropriate ways. Still, they receive exceptionally inadequate federal funding for government services that were promised by the United States.<sup>27</sup> Many federal departments and agencies do not collect the data necessary to measure unmet programmatic obligations and responsibilities across tribal programs within their budgets.<sup>28</sup> As a result, any measure of progress for tribal programs is arbitrarily compared to historical budgets that are documented as underfunded and insufficient to meet the trust and treaty obligations of the federal government to tribal nations and their citizens. Some departments and agencies entirely exclude tribal nations from the budget formulation process or receive input that is either wholly disregarded or minimally adopted. Tribal nations have faced the prospect of federal government shutdowns, a delayed budget process leading to continuing resolutions year after year, and sequestration, all of which have left the trust responsibility only partially fulfilled.

In December 2018, the United States Commission on Civil Rights (USCCR) released its report titled, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans (Broken Promises Report)*. The Broken Promises report found that the federal government's efforts in the past 15 years have resulted in only minor improvements across Indian Country.

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Additionally, the report noted that federal programs serving Indian Country continue to be underfunded and, federal initiatives for Native Americans have regressed in some ways. Specifically, the Commission reported the following findings:

Federal programs designed to support the social and economic wellbeing of Native Americans remain chronically underfunded and sometimes inefficiently structured, which leaves many basic needs in the Native American community unmet and contributes to the inequities observed in Native American communities. The federal government has also failed to keep accurate, consistent, and comprehensive records of federal spending on Native American programs, making monitoring of federal spending to meet its trust responsibility difficult. Tribal nations are distinctive sovereigns that have a special government-to-government relationship with the United States. Unequal treatment of tribal governments and lack of full recognition of the sovereign status of tribal governments by state and federal governments, laws, and policies diminish tribal self-determination and negatively impact criminal justice, health, education, housing and economic outcomes for Native Americans.<sup>29</sup>

The Broken Promises report's findings further highlight the federal government's lack of progress in making good on its promises to Indian Country for specific areas of federal policy. The report include the following findings:

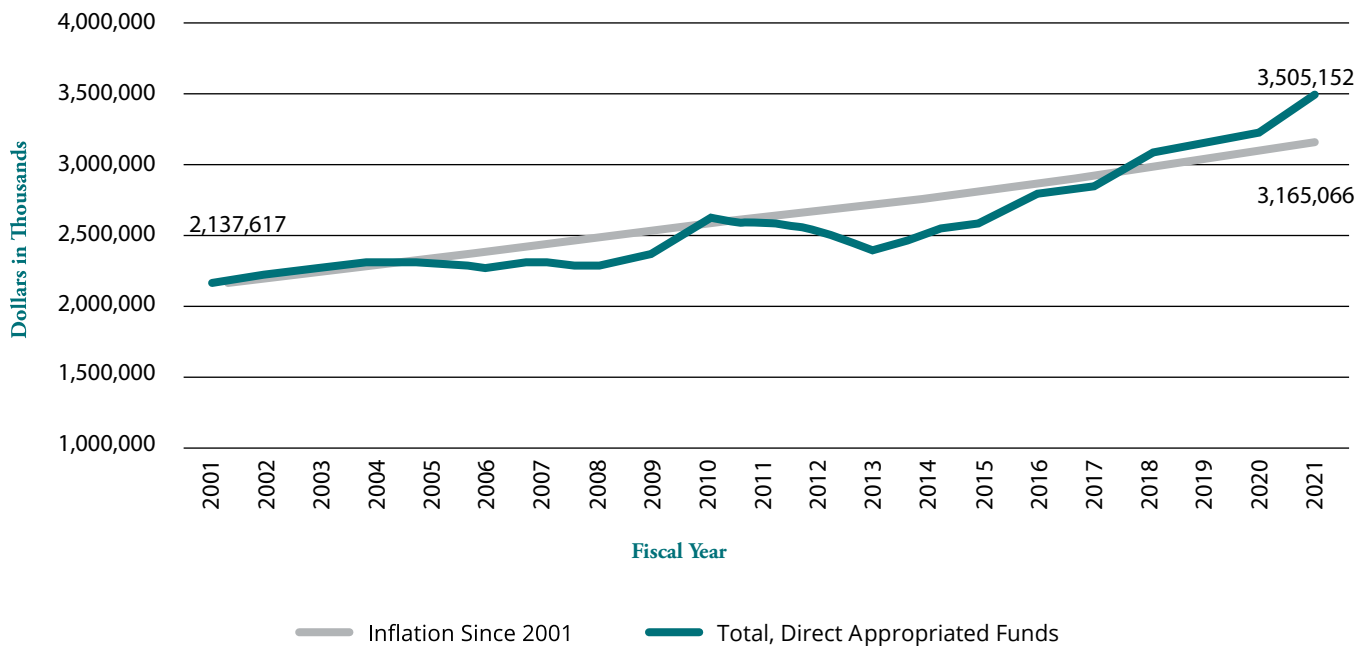
- "Although overall funding for public safety in Indian Country has increased, it does not come close to meeting the public safety needs in Indian Country or the needs to police and protect natural resources."<sup>30</sup>
- "Funding for the Indian Health Service (IHS) and Native American health care is inequitable and unequal."<sup>31</sup>
- "The federal government has failed in its obligation to provide educational services that address the unique situation of Native American students."<sup>32</sup>
- "Since the Commission's 2003 report, the housing crisis in Indian Country has worsened."<sup>33</sup>
- "The federal government has failed to honor its trust responsibility to promote Native American self-determination via its support of economic development in Indian Country . . . The federal government has failed to assist the tribes with the individualized economic development necessary for tribes to exercise self-determination and make a knowledgeable decision as to how to best develop and manage their nation's resources for the tribes' benefit."<sup>34</sup>

For this budget report, NCAI conducted a detailed analysis of federal government spending on Native American programs for the U.S. Department of the Interior, Indian Affairs (Indian Affairs) programs for FYs 2001 through 2021. The accounts under "Indian Affairs" include funding for the BIA, BIE, certain Office of the Assistant Secretary for Indian Affairs activities, BIA and BIE Construction, settlements and miscellaneous payments, Contract Support Costs for Indian Affairs, and Payments for tribal leases for Indian Affairs.

This federal spending analysis includes 237 funded subactivities or program elements provided as direct appropriations to Indian Affairs over the 20-year reporting period. Direct funding appropriated for each year in the dataset was gathered by using Congressional Budget Justifications from the BIA and BIE reports for fiscal years that had already ended.<sup>35</sup> The analysis takes into account the flexible nature of Contract Support Costs (and now, Payments for Tribal Leases) due to the "such sums as may be necessary" appropriations language used for these indefinite accounts. For FY 2021 funding data, the Joint Explanatory Statement for Division G of the Consolidated Appropriations Act, 2021 is used for enacted amounts.<sup>36</sup> When Indian Affairs releases its report of total direct appropriated amounts for FY 2021, any necessary updates to the dataset will be made to reflect actual appropriated amounts.



**Figure 1.1 – U.S. Department of the Interior – Indian Affairs  
Total Direct Appropriated Funds (Dollars in Thousands)  
FY 2001 – 2021**

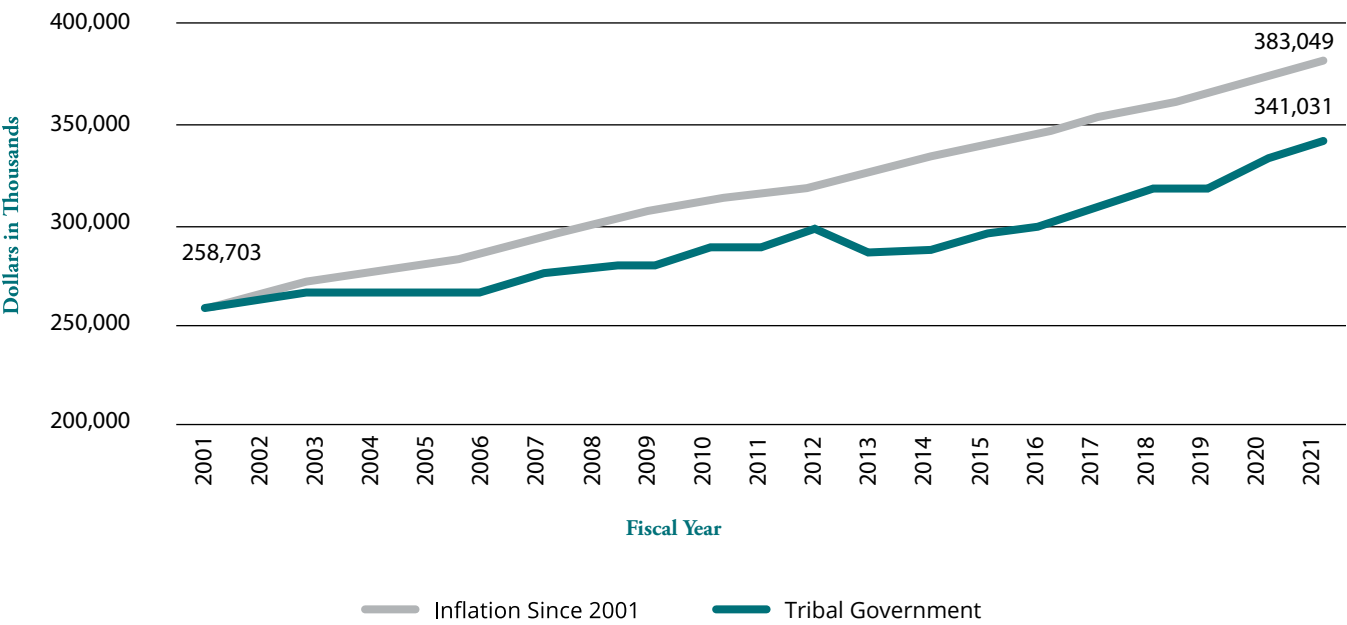


As shown in Figure 1.1, Indian Affairs programs over the past 20 years have marginally beat the purchasing power of FY 2001 direct appropriated amounts adjusted annually for inflation over a 20 year period.<sup>37</sup> However, detailed spending data reveal that many activities and individual programs within the budget often lose ground over time, and that significant increases in the budget for certain programs prioritized in a particular year often comprise most of the narrative of an annual increase. Figure 1.1 also visually demonstrates the effects of the Budget Control Act of 2011 on the federal government’s trust and treaty obligations to tribal nations when those obligations are considered as part of discretionary spending. In these years, the amount appropriated had less purchasing power than the amount provided a decade prior. For more than half of the last two decades, tribal governments have been faced with the decision to reduce government operations or supplement the federal government’s shortfall when appropriation shortfalls do not keep pace with inflation.

The FY 2020 enacted amount for the Operation of Indian Programs was just \$1.58 billion, which includes funding for 574 tribal nations and federal government staff at central, regional, and area agency offices to administer Indian Affairs programs. Before the current COVID-19 crisis, tribal nations’ gaming enterprises alone provided more than \$12.59 billion annually to support tribal governmental programs.<sup>38</sup> However, “[in]early half of federally recognized Tribes in the United States do not operate gaming facilities at all,”<sup>39</sup> and of that percentage, many are small and in remote areas.

When taking a closer look at federal spending data for Indian Affairs, not all activities within the budget are keeping pace with inflation. For example, in our analysis, we controlled for programs that move in and out of funded activity categories over time to eliminate duplicative entries, and a breakdown by activity as they exist today shows that certain Operation of Indian Program activities are failing to keep pace with inflation. The budget activity “Tribal Government” in the “Operation of Indian Programs” account is of particular note and Figure 1.2 illustrates annual enacted appropriations since 2001 and annual appropriations if they only increased by inflation since 2001.

**Figure 1.2 – Operation of Indian Programs – “Tribal Government” Annual Appropriations (Dollars in Thousands)  
FY 2001 – 2021**



The budget activity “Tribal Government” assists tribal nations and tribal consortia in strengthening and sustaining tribal government systems and supporting tribal self-governance through the Indian Self-Determination and Education Assistance Act (ISDEAA), Public Law 93-638 contracting and self-governance compacting process. Subactivities within the “Tribal Government” activity as it exists today include and are not limited to “Aid to Tribal Government (TPA),” “New Tribes (TPA),” and “Small Tribes Supplement (TPA),” three programs that provide baseline funding to support basic tribal governance.

The budget activity “Tribal Government” also includes the subactivities “Consolidated Tribal Government Program (TPA)” and “Self-Governance Compacts (TPA).” The Consolidated Tribal Government Program allows approximately 275 entities to

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combine various contracted programs and grants of a similar or compatible nature. The Self-Governance Compacts subactivity allows for an eligible ISDEAA recipient to move certain subactivity and Program Element funding shares into a consolidated funding line item that reflects the tribal control and flexibility in the use of these funds. These two subactivities are of note because a common rebuttal to apparent reductions or nominal increases in subactivity funding year over year are that more tribal shares are moving out of individual subactivities or Program Elements and into these consolidated funding subactivities. When analyzing federal spending between FY 2001 and 2021, funding for subactivities within “Tribal Government” as it exists today experienced an approximate \$42 million loss in purchasing power when comparing the FY 2001 enacted amounts for those same programs adjusted annually for inflation.

The House of Representatives, the Senate, and the Administration put forward spending data each year that indicates how they value the United States’ trust and treaty obligations to tribal nations and their citizens. These policy statements can be quantified and measured over time and against other spending by the federal government. Historic trends in federal spending data are a wealth of knowledge that can improve tribal advocacy for better federal spending on tribal programs by revealing patterns in the data over time. Each funded line item tells a unique story and, as with budgets in the aggregate, each appropriated amount is a fundamental policy statement made by the federal government. By controlling for which federal entity put forward the data and which political party controls that body of government during that period, we add context to the financial discourse and measure competing policy interests in American government.

However valuable this information may be, it is critical to distinguish federal spending on tribal programs from a measure of the federal government’s full unmet obligations. The Broken Promises report and NCAI’s ongoing efforts to analyze and illustrate federal spending trends in greater detail can serve as a status check on the federal government’s progress in upholding its obligations to AI/ANs and help provide support for Congress to take action.

## RESTORING PROMISES

The federal budget process has continually let tribal nations down. The United States must fulfill its obligations to tribal nations and their citizens to restore faith in the promises made. Congress and the Administration must work collaboratively with tribal nations to take the following steps toward restoring the promises made to tribal governments and their citizens:

**Require all federal departments or agencies with tribal programs to include an annual estimate of the cost to fully fund the responsibilities of each tribal program within the department or agency.** Each program estimate should include a detailed explanation of the methodology and underlying data relied on to provide such estimates. Each methodology must be developed in consultation and collaboration with tribal nations. The estimates must also identify data deficiencies that limit accuracy and provide a plan for remedying those deficiencies. While this undertaking may take some time, the urgency of this data collection effort to estimate full funding responsibilities for tribal nations demands immediate government-wide action.

**Enact strict and consistent confidentiality requirements on all tribal data collected by the federal government, including restrictions on internal use and transfer of tribal data between agencies and penalties for misuse.** Government actions are often data-driven and certain information is critical to allocate spending for tribal programs. Unfortunately, the unauthorized public release of tribal data during the Coronavirus Relief Fund implementation renewed tribal distrust and skepticism in the federal government’s collection and use of tribal data. Administrative guardrails and protections must be developed in

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consultation and collaboration with tribal nations to restore faith in the federal government as partner and as trustee. These measures would provide express assurances to tribal governments that the United States has a fiduciary obligation to safeguard tribal data that is collected for fulfillment of its federal trust and treaty responsibilities. Simply put, it is a fundamental matter of government-to-government trust.

**Empower tribal governments to collect and certify their own data for use by the federal government.** More than 45 years of self-determination and self-governance in federal Indian policy have clearly and repeatedly demonstrated that empowering tribal nations to govern is the most fiscally responsible and effective use of funds providing government services to AI/ANs. The federal government has tribal data deficiencies, and the solution must be collaboratively developed and maintained by tribal and federal partners working together. Tribal governments enter into annual funding agreements to operate federal programs and are good financial stewards of the funds they receive. Providing resources to tribal governments to collect and certify certain data within the parameters of negotiated funding agreements allow for improvements in federal data and tribal program outcomes, as well as certain mutual assurances that the data, once received by the federal government, will not be misused.

**Make spending for programs that fulfill the trust and treaty obligations of the United States mandatory.** Spending to fulfill the trust and treaty obligations of the federal government should be considered a mandatory obligation and should be provided for as mandatory spending in an allocation mutually agreed to by tribal governments and the federal government in consultation. Additionally, certain indefinite account payments, such as Contract Support Costs and Payments for Tribal Leases, fulfill obligations that are typically addressed through mandatory spending. Inclusion of accounts that are mandatory in nature under discretionary spending caps has resulted in a net drag on the amount of funding provided for tribal programs and, by extension, the ability of the federal government to fulfill its promises to tribal nations. All programs and services for tribal nations deserve full funding and to be classified as mandatory.

**Provide advance appropriations for Indian Affairs and Indian Health Service (IHS) accounts.** Although government shutdowns are prominent examples of the negative effects on tribal nations due to breakdowns in the federal budget process, tribal nations also must regularly contend with uncertainty when planning and delivering services to their citizens because of short-term continuing resolutions. Since FY 1998, there has only been one year (FY 2006) in which the Interior, Environment, and Related Agencies Appropriations bill has been enacted before the beginning of the new fiscal year. Authorizing advance appropriations for the BIA and IHS is a solution to the issue of delayed funding. Advance appropriations are an agreement to fund certain programs at a set amount in advance of when that funding is made available. These advance appropriations amounts do not become available until the fiscal year they are designated to fund and can be modified to reflect changing conditions that may need revised appropriations at a later date. Advance appropriations are budget neutral and potentially flexible funds that help entities and programs manage specific planning concerns. Unfortunately, advance appropriations for BIA and IHS require authority that Congress has not yet granted.

**Provide excepted Continuing Resolution durations for BIA and IHS accounts.** Any time that a stopgap funding measure must be passed, excepted durations of Continuing Resolution (CR) funding for BIA and IHS could immediately insulate against tribal budget uncertainty. Even though CRs typically provide funds at a specified rate, they can also have provisions that provide an exception to duration, amount, or purpose of funds. These exceptions are called “anomalies,” and most CRs include certain anomalies that adjust the duration, amount, or purpose of certain funding. Congress could provide for BIA

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and IHS with full-year funding at prior year amounts, subject to final adjustments to reflect actual enacted amounts. An excepted CR duration for BIA and IHS accounts would allow for Congress to complete its appropriations negotiations while providing immediate certainty and stability to tribal operations that are uniquely reliant on federal appropriations. Excepted CR durations are a simple statement that once partisan disputes are settled, the promises of the federal government to tribal nations and their peoples will remain.

**Provide full-year exception apportionment for Indian Affairs and IHS accounts as part of OMB apportionment under any continuing resolution providing partial-year funding.** Apportionment is an OMB-approved plan to use budgetary resources that sets limits on the obligations incurred by the federal government. An exception to OMB apportionment under a CR can allow the federal government to obligate more than is otherwise allowable under the Apportionment instructions. These exceptions make management sense for essential government services where the continuity of appropriations for the program is extremely likely. The effect is to reduce labor inefficiency and government waste while providing certainty and security to tribal nations and their citizens that tribal governments and hospitals will be able to operate while Congress finalizes its appropriations negotiations.

Apportionment instructions begin when the requisite budget office from each agency submits a Standard Form (SF) 132 Initial Apportionment to OMB. As such, the Administration must direct the Department of the Interior and Department of Health and Human Services to include exception apportionment instructions for Indian Affairs and IHS accounts in their request to OMB, and OMB must be directed to adopt these apportionment exceptions. While the federal appropriations landscape is often uncertain, this Administration can make a commitment to provide certainty and security to tribal nations using existing authority that is already in use.

**Provide tribal governments the maximum flexibility possible in their use of federal funds.** Tribal governments are responsible stewards of federal funds. As the local and often most immediate form of government services to the community, tribal governments are in a position to make better informed decisions based on the unique needs of their nations. The end result is more efficient use of federal funds and improved programmatic outcomes through empowering and trusting tribal governments to execute programs for the benefit of their nations and communities. Self-determination and Self-governance policies work, and the federal government should seek to expand upon those funding and governance theories.

**Provide funding directly to tribal nations and not as pass-through funding to states or another entity.** Funding provided for the benefit of tribal governments and their citizens must be provided directly to tribal governments so that any programmatic decisions or administrative costs associated with the implementation of those funds are used by the governments and people they are intended to benefit. Tribal governments are responsible stewards of federal tax dollars and routinely receive federal funds to operate programs. Providing funds directly to tribal governments will reduce bureaucratic inefficiencies that could result in more access to funds for the programmatic mission and better program outcomes.

**Provide formula-based, annually-recurring funding for tribal programs that fulfill core trust and treaty obligations to tribal governments rather than competitive grant mechanisms.** Applications to competitively justify funding are incongruent with the federal government's trust and treaty obligations to tribal governments. Competitive grants also introduce uncertainty into tribal government operations based on whether funds can be secured to sustain long-term tribal governance and infrastructure development. Competitive grant funding often requires resources to compete that effectively bar certain



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tribal nations from successfully accessing these funds. Formula-based funding methodologies should always be developed in consultation and collaboration with tribal governments and informed by datasets mutually agreed upon by tribal governments and the federal government.

**In the event that Congress does not provide formula based funding for a program, eliminate barriers to grant funding access such as matching requirements and project sizes/parameters that restrict tribal applications.** Tribal grant applicants face barriers due to overly proscriptive grant parameters, grant application costs, and dollar matching requirements that create two classes of government-to-government relationships: a relationship with those that can afford or meet the project parameters sufficiently to compete; and another relationship with those that are effectively barred from access to competitive programs, making the funding opportunity inaccessible for many tribal nations.

**Provide increased technical assistance and training government-wide to support tribal outreach and education on federal programs that benefit tribal nations.** Greater outreach and education provided to tribal governments and other eligible tribal funding recipients will promote collaborative action with the federal government on mutual governance and infrastructure goals. Improved technical assistance and training for tribal nations on grant applications can promote access to funding opportunities for those that do not have the resources to compete without support.

## CONCLUSION

Tribal nations and their citizens remain determined to overcome the challenges that their communities face across Indian Country. NCAI urges the U.S. Government as our federal trustee to support tribal nations by fulfilling its fiduciary responsibilities, providing adequate funding for programs serving Indian Country, and ensuring the funding reaches tribal communities on time, every time. The NCAI FY2022 Budget Request offers recommendations for ways the federal government, in partnership with tribal nations, should meet the educational needs of Indian youth; provide adequate healthcare for both direct and self-governance tribal nations; ensure responsible resource development for the future; support safe and secure tribal communities; and supply the long-term investments in tribal public infrastructure and services required to ensure every AI/AN enjoys a good quality of life and has an opportunity to thrive.



## SUPPORT FOR TRIBAL GOVERNMENTS

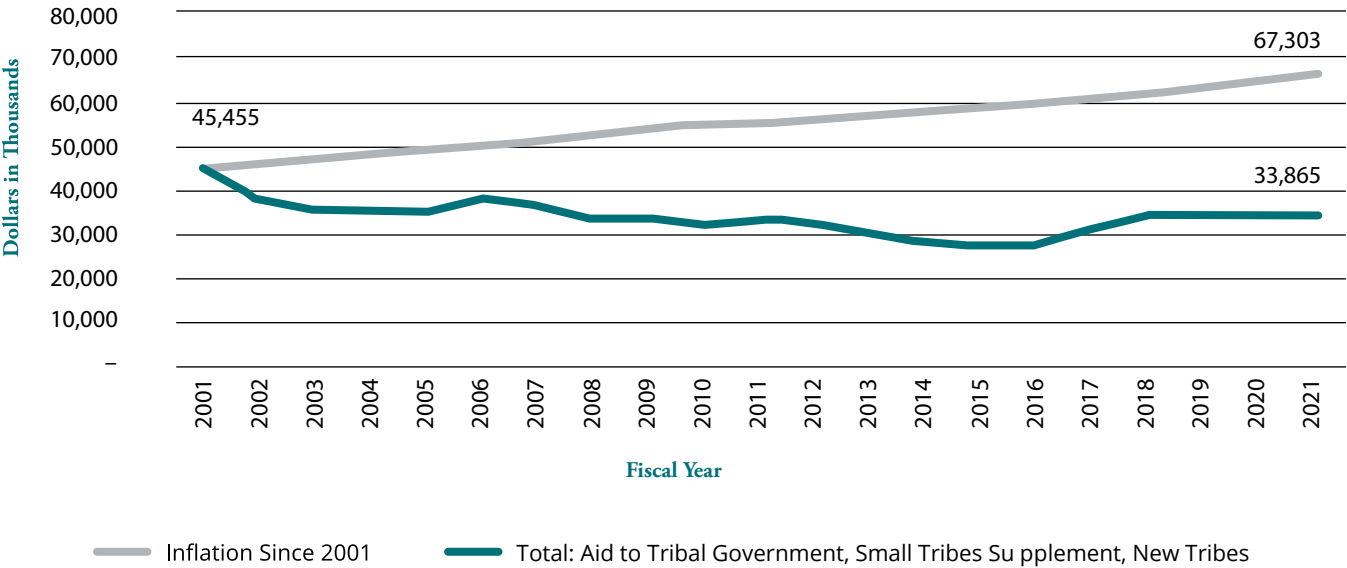
Ensuring tribal nations have the tools for effective governance is critical to fulfilling the intent of the Indian Self-Determination and Education Assistance Act (ISDEAA). Congress must support Indian self-determination by increasing tribal base funding, providing funding directly to tribal nations as opposed to passing funds through states, and promoting more accurate data collection so that funding can better target the needs of Indian Country. ISDEAA promotes self-determination and self-governance through the ability of tribal nations to enter into contracts and compacts with the federal government to administer certain federal programs. Those tribal shares of federal programs make up the “base funding” for tribal governments and provide certainty and security to tribal governments.

In exchange for the land and resources that made the United States the most powerful country in the world, tribal nations paid in full to retain their inherent right of sovereignty and for the programs and services they receive from the federal government. These governmental services represent an exchange of promises made and the acknowledgement of sovereign rights already held by tribal governments. Funding these programs and services should not be discretionary and should not be done in the form of grants.

Tribal governments are responsible for a broad range of governmental activities that require strong, stable institutions to execute and manage. The governmental status of tribal nations is at the heart of every issue that touches Indian Country. The U.S. Department of the Interior, Bureau of Indian Affairs (BIA) provides funding for the “Aid to Tribal Government (TPA)” program for program costs and staffing to execute tribal government activities such as monitoring compliance with government documents and maintaining current citizenship information.<sup>40</sup> Aid to Tribal Government funding assists tribal government systems by providing baseline funding for tribal government programs and services.<sup>41</sup> Unfortunately, funding to support tribal governments has been woefully inadequate.<sup>42</sup> Additionally, the BIA provides funding for the “Small Tribes Supplement” program to provide a minimum base level by which eligible tribal nations can run viable governments.<sup>43</sup> The BIA also provides funding for the “New Tribes” program that establishes a base level of funding to support new federally recognized tribal nations that is eventually transferred to the Aid to Tribal Government program.<sup>44</sup>

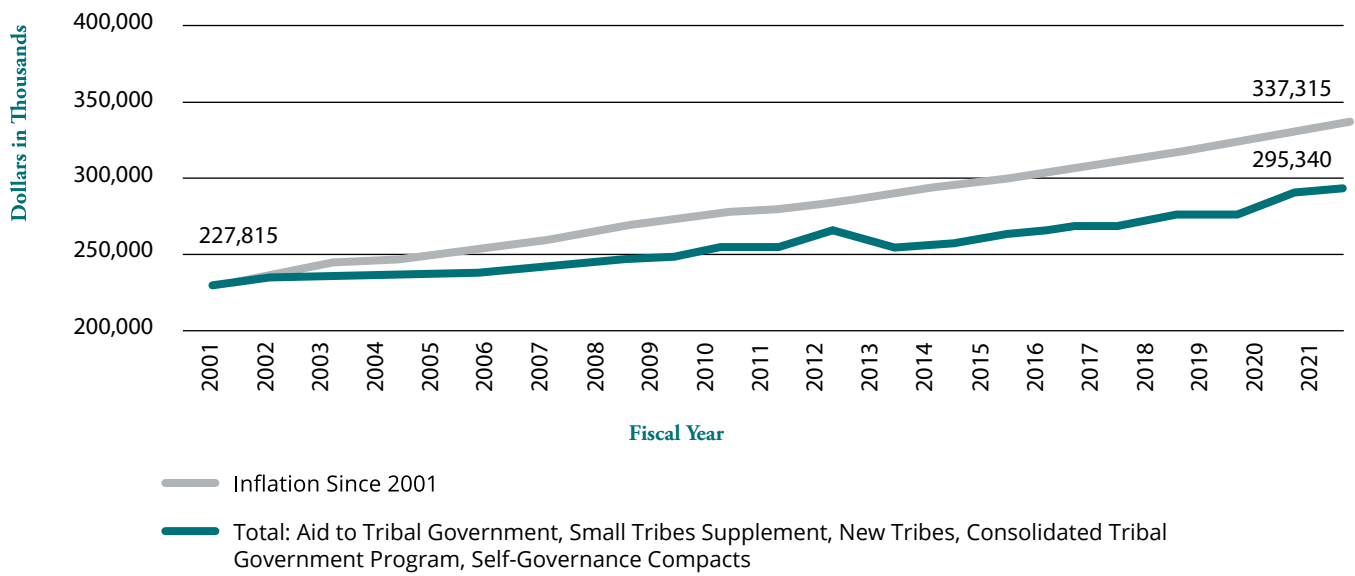
Unfortunately, the funded amount of these three Indian Affairs programs in FY 2021 has \$33.4 million less purchasing power than the amount provided in FY 2001 adjusted annually for inflation (See Figure 2.1).<sup>45</sup>

**Figure 2.1 – Aid to Tribal Government, Small Tribes Supplement, and New Tribes Total (Dollars in Thousands)  
FY 2001 – 2021**



Even when controlling for consolidated funding programs such as “Consolidated Tribal Government Program” and “Self-Governance Compacts” that allow for moving tribal shares into a single program line, the net effect is still a \$42 million loss in purchasing power over time when comparing the FY 2021 enacted amount to the adjusted FY 2001 amount (see Figure 2.2). While the two consolidated funding lines each have tribal shares from programs other than Aid to Tribal Government, which makes their direct comparison less than clear, inclusion of these consolidated funding programs in an analysis responds, in part, to the argument that program amounts may apparently fail to keep pace over time because shares were moved to consolidated funding programs at the directive of the tribal government. In Figures 2.1 and 2.2, funding to support basic tribal government is losing ground, no matter its funded program identity.

**Figure 2.2 – Aid to Tribal Government, Small Tribes Supplement, Consolidated Tribal Government Program, Self-Governance Compacts Total (Dollars in Thousands)  
FY 2001 – 2021**



Tribal governments receive less support for basic tribal governance than 20 years ago, leaving increasing portions of the federal government’s trust and treaty obligation to tribal nations unfulfilled. Tribal nations often need to supplement federal funding with their own resources to provide needed services. Tribal nations and their people have already paid in full for the promises made by the federal government and should not have to pay again by supplementing the federal government’s broken promises. Even with supplemental funding provided by tribal economic enterprises, certain systemic issues throughout Indian Country continue to worsen, and deferred maintenance lists and unmet obligations continue to grow.

Providing robust increases to basic tribal government support and all Operation of Indian Programs is a necessary component of building strong tribal governments, but it is not the only consideration. Funding must also be provided in a way that promotes sovereignty and the unique challenges and needs of each tribal nation. Over four decades of self-determination and self-governance experience in federal Indian policy has repeatedly demonstrated that empowering tribal governments is the most fiscally responsible and effective federal solution to improving conditions in Indian Country.

### DEPARTMENT OF THE INTERIOR

#### Interior, Environment, and Related Agencies Appropriations Bill

##### Indian Affairs

- *Require Indian Affairs to put forward an estimate of the full unmet obligations within each program under the Operation of Indian Programs*

Indian Affairs programs do not collect the data necessary to measure unmet programmatic needs across tribal programs. Failure to collect this data and put forward a needs-based budget directly harmed tribal nations during legislative COVID-19 relief negotiations. Tribal nations were often asked to supply data that documented the extent of unmet needs, and tribal relief asks were compared against underfunded annual Indian Affairs appropriations. Congress must require Indian Affairs to complete an annual estimate of the cost to fully fund the unmet need in each program within the Operation of Indian Programs that must be submitted to Congress. Each program estimate should include a detailed explanation of the methodology and underlying data relied on to provide Congress such estimates. Each methodology must be developed in consultation and collaboration with tribal nations. The report must also identify data deficiencies that limit accuracy and provide a plan for remedying those data deficiencies.

### ALL DEPARTMENTS

#### All Appropriations Bills

##### Government-wide

- *Provide support to tribal governments through recurring, base funding instead of through grants*

Grant funding, particularly in BIA funding to tribal nations, is not consistent with the intent of Indian self-determination. Tribal leaders have grown increasingly frustrated by the increase in funding to tribal governments through grants. Allocating new funds via grant opportunities marginalizes and impedes the exercise of tribal self-determination. It also drains vital tribal government resources on grant writing, monitoring, and reporting that could otherwise be used to increase the quality of life for tribal citizens and in tribal communities.

When tribal nations are forced to apply for funding through grant opportunities, the ultimate result is that federal employees, not elected tribal leaders, retain program authority. Grants limit the flexibility and local control authorities available to tribal nations under ISDEAA. For example, if a tribal nation receives funds for a detention facility and also creates a culturally-appropriate rehabilitation or prevention program, they cannot use their detention funds for these other programs even though it would lower incarceration rates in their community. Funding for tribal governments through ISDEAA contracts and compacts allows greater flexibility to utilize federal funds in ways that best promote the shared policy goals of tribal nations and the federal government.



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## DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Interior, Environment, and Related Agencies Appropriations Bill ISDEAA Section 105(l) Lease Program for BIA and IHS

- *Provide such sums as may be necessary for Section 105(l) lease agreements through mandatory spending*

Under ISDEAA, most tribal nations now administer programs that were previously administered by the federal government, which results in the need for tribal facilities to house these programs. Section 105(l) of the ISDEAA, 25 U.S.C. § 5324(l), provides that the Secretary of the Interior and the Secretary of Health and Human Services (HHS) must enter into leases with an Indian tribe or tribal organization for the administration and delivery of services under ISDEAA. Section 105(l) requires the Secretaries to compensate each Indian tribe or tribal organization for lease costs including rent, depreciation, operation and maintenance, and other reasonable expenses. The *Maniilaq Ass’n v. Burwell* decisions in 2014 (72 F. Supp. 3d 227 (D.D.C. 2014)) and 2016 (70 F. Supp. 3d 243 (D.D.C. 2016)) upheld this federal responsibility, and tribal nations are now entering into lease agreements with both Interior and HHS to compensate for the use of tribal facilities for ISDEAA services.

While the agencies and appropriators acknowledge the mandatory nature of 105(l) lease obligations, the discretionary appropriations for lease compensation have not kept pace with the need. In the last few years, the inability to forecast the number of lease requests during a fiscal year has led to major shortfalls at the Indian Health Service, which requires reprogramming funds from other critical programs. Necessary increases for the 105(l) lease program have come at the expense of crucial funding in other areas.

In Division G of the FY 2021 explanatory statement for the Interior, Environment, and Related Agencies appropriations bill, H.R. 133, appropriators recognize that 105(l) leases, as confirmed in the *Maniilaq* cases, appear to create an entitlement to compensation . . . that is typically not funded through discretionary appropriations. The Committee directs the agencies to consult with tribes on how to fund these costs without impacting other core tribal programs, including a reconsideration of the current discretionary funding classification.

In the FY 2021 Consolidated Appropriations Act, Congress established separate, indefinite appropriations for “such sums as may be necessary” for Interior and HHS to fully fund 105(l) leases. While an excellent interim step, this keeps lease funding in the discretionary realm where it competes with other Indian program funding. The explanatory report notes that a reduction in IHS Hospitals and Clinics funding is directly related to the establishment of a separate appropriations account for the mandatory costs associated with Tribal leases under section 105(l).

In order to secure the Section 105(l) program in the long-term while protecting other critical programs, funding for these leases should be classified as mandatory spending for both Interior and HHS. While consulting with tribal nations on long-term solutions, the agencies must continue fully funding these mandatory lease obligations. The funding for these obligations must also be mandatory so it does not count against discretionary spending caps and cannibalize other Indian programs.

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## DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Interior, Environment, and Related Agencies Appropriations Bill ISDEAA Contract Support Costs for BIA and IHS

- *Provide such sums as may be necessary for Contract Support Costs through mandatory spending*

ISDEAA requires the Secretary of the Interior and the Secretary of Health and Human Services (HHS) to pay tribal nations the funding associated with federal programs and Contract Support Costs (CSC), which are the administrative and overhead costs of running the programs. Over twenty years of litigation finally established in 2012 that full payment of CSC is a mandatory legal obligation. Yet Congress still funds CSC as a discretionary appropriation, meaning it competes with other programs funded in the agencies' discretionary budgets. It is time to square the appropriations process with the mandatory nature of CSC under the ISDEAA: funding for CSC should be appropriated on a mandatory basis.

In the 2006 *Cherokee Nation* case and the 2012 *Ramah Navajo* case, the Supreme Court confirmed that ISDEAA requires full payment of CSC to each contractor even when Congress caps CSC appropriations at a level insufficient to fully pay all contractors.<sup>46</sup> Despite the mandatory nature of ISDEAA contracts and the entitlement to full CSC under those contracts, both Interior and HHS currently pay CSC out of annual discretionary appropriations. This fundamental disconnect between the authorizing statute and the appropriations process pits funding for CSC against funding for Indian programs and services.

As the Appropriations Committees recognized as far back as 2014, the mandatory nature of CSC obligations places the appropriators in an “untenable position.”<sup>47</sup> As they wrote in the Explanatory Statement that year, “[t]ypically obligations of this nature are addressed through mandatory spending, but in this case since they fall under discretionary spending, they have the potential to impact all other . . . equally important tribal programs.”<sup>48</sup> Beginning in FY 2016, Congress established a separate, indefinite appropriation for “such sums as may be necessary” to fully fund CSC, which ensures full payment but also keeps CSC funding in the discretionary realm where it competes with other Indian program funding.

Appropriating CSC on a mandatory basis would solve this problem once and for all by bringing the appropriations process into line with the clear legal requirements of the authorizing statute. Contract support cost funds are already an entitlement under substantive law for the ISDEAA to function as intended by Congress. It is contradictory and problematic to appropriate funding for CSC on a discretionary basis. The commonsense solution is to bring the appropriation process into line with the authorizing statute and the *Cherokee* and *Ramah* decisions by appropriating funding for CSC on a mandatory basis through a permanent, indefinite appropriation in substantive law. A simple amendment to a permanent appropriations statute could solve the decades-long contract support cost dilemma. At no net cost, the Government would avoid liability, protect Indian programs, and honor tribal contracts.

## ALL FEDERAL DEPARTMENTS

### All Appropriations Bills Government-wide

- *Allow funding from departments and agencies outside of Indian Affairs to be administered through existing ISDEAA funding agreements*

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Several areas of tribal governance receive federal funding from multiple departments or agencies. Unfortunately, not all funding agreements for tribal nations are created equal across the federal government, and not all agencies have the same relationship with or basic understanding of tribal governments. Disparities in government-to-government relationships across departments and agencies create bureaucratic inefficiencies that frustrate the intent of the government-to-government relationship, inhibit tribal sovereignty, ignore tribal government expertise in addressing local governance issues, create additional burdens in management and reporting requirements for both parties, and trap problems and solutions on two separate sides of an artificially designed federal barrier. Funds should be available for transfer through existing ISDEAA agreements with the maximum use flexibility to be most effective. Empowering tribal governments to determine their own priorities works, and consolidating agreements and reporting requirements can increase federal and tribal program efficiencies, maximizing outcomes per dollar investment by the federal government and, thus, better fulfil the federal trust and treaty obligations.



## PUBLIC SAFETY AND JUSTICE

Among the fundamental components of the federal government’s trust responsibility to tribal nations is the obligation to protect public safety on tribal lands. Congress and the U.S. Supreme Court have long acknowledged this obligation, which Congress reaffirmed in the Tribal Law and Order Act (P.L. 111-211) (TLOA) expressly “acknowledging the federal nexus and distinct federal responsibility to address and prevent crime in Indian Country.”<sup>49</sup>

The inadequate funding for tribal criminal justice and public safety has resulted in staggering rates of violent crime and victimization on many Indian reservations. A Department of Justice (DOJ) study found that more than four in five AI/AN adults have experienced some form of violence in their lifetime.<sup>50</sup> Among AI/AN women, 55.5 percent have experienced physical violence by intimate partners in their lifetime, and 56.1 percent have experienced sexual violence.<sup>51</sup> The lack of funding for justice and victims’ services in Indian Country contributes to the high rates of suicide, substance abuse, and other issues that plague many tribal communities.

In 2018, the U.S. Commission on Civil Rights found that there continues to be “systematic underfunding of tribal law enforcement and criminal justice systems, as well as structural barriers in the funding and operation of criminal justice systems in Indian Country” that undermine public safety.<sup>52</sup> In 2009, the Interior Department established a High Priority Performance Goal to reduce violent crime by a combined 5% within 24 months on several high-crime reservations. By the end of 2011, the strategies implemented by the law enforcement agencies on these reservations resulted in a combined reduction in violent crime of 35%.<sup>53</sup> While there were a number of elements to the strategy, the cornerstone of the program was a significant increase in the number of trained law enforcement officers in the community. Meaningful investment in tribal law enforcement and tribal justice systems is necessary for residents and visitors on tribal lands to have the safety and security that is taken for granted outside of Indian Country. Tribal justice systems simply need the resources to put their tools to work so they can protect their women, children and families in their communities, address substance abuse, rehabilitate first-time offenders, and put serious criminals behind bars.

The underfunding of tribal law enforcement and justice systems is well-documented. In 2020, the Bureau of Indian Affairs (BIA) submitted a report to Congress estimating that to provide a minimum base level of service to all federally recognized tribal nations, \$1.3 billion is needed for tribal law enforcement, \$1.2 billion is needed for tribal courts, and \$240.6 million is needed for existing detention centers.<sup>54</sup> Based on its latest report, the BIA is funding tribal law enforcement, detentions/corrections, and tribal courts at a dismal 14.7 percent of estimated need.<sup>55</sup>

Due to the obvious inadequacy of public safety and justice funding provided by the BIA, tribal nations must rely on short-term competitive grants in order to make up a portion of the shortfall. This is especially true for tribal courts, which are even more severely underfunded than BIA Law Enforcement and Detention/Corrections programs. The bulk of these competitive grants are administered by DOJ.

Funding for most tribal grant programs at DOJ remained relatively stagnant in recent years. Tribal government access to funding from the Crime Victims Fund, however, has significantly increased. In FY 2015, Congress increased disbursements from the Crime Victims Fund threefold to approximately \$2.3 billion, increasing to over \$3 billion by 2017.<sup>56</sup> Unfortunately, less than one percent of funds were provided to tribal governments between FY 2013 and FY 2017.<sup>57</sup> Beginning in FY 2018, appropriators provided that three percent of the overall disbursements from the Crime Victims Funds should be directed to Indian tribes to improve services to crime victims.<sup>58</sup> For the past three years, Congress has directed five percent of the overall disbursements from the Crime Victims Fund to Indian tribes. This funding is administered by the Office for Victims of Crime, consistent with the Victims of Crime Act.<sup>59</sup> While this funding for crime victim services is sorely needed, funding for other critical programs and services provided by DOJ have remained relatively stagnant,<sup>60</sup> leaving large unmet public safety and justice need.<sup>61</sup>

Increased and targeted funding in the following program areas will have a significant impact on safety in tribal communities for tribal citizens, residents, and visitors to tribal lands. Well-functioning criminal justice systems, basic police protection, and services for victims are fundamental priorities of any government, and tribal nations are no different.

## Key Recommendations

### DEPARTMENT OF THE INTERIOR

#### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs (BIA)

- Provide \$123 million for tribal courts, including courts in P.L. 83-280 jurisdictions

The BIA estimates that full funding for tribal courts would cost \$1.2 billion.<sup>62</sup> FY 2021 funding for tribal courts was \$38.9 million for tribal courts generally and \$15 million for tribal courts in P.L. 83-280 (“P.L. 280”) jurisdictions. Originally enacted in 1993, the Indian Tribal Justice Act (P.L. 103-176) (ITJA) authorized an additional \$50 million per year for each of seven years for tribal court base funding. In today’s dollars, this would equal \$89 million per year, which would still be less than 10 percent of the overall need estimated by BIA.<sup>63</sup> Despite numerous Congressional reauthorizations of the ITJA over the past couple of decades, most recently in TLOA, funds have never been appropriated to implement the Act. The ITJA does not

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differentiate between tribal nations subject to P.L. 280 jurisdiction or not. The promise of this much-needed base funding must be fulfilled. Congress must commit to fully funding tribal courts within the next five years by incrementally increasing funding each year.

- *Provide \$527.4 million for Criminal Investigations and Police Services and Detention/Corrections*

More than 200 tribal police departments, ranging from small departments with only two officers to those with more than 200 officers, help to maintain public safety on over 50 million acres of tribal lands within 48 contiguous states.<sup>64</sup> Tribal law enforcement officers are usually the first responders to crime scenes on tribal lands, but their current funding lags well behind that of their non-tribal counterparts.<sup>65</sup> The U.S. Commission on Civil Rights recently noted that tribal nations have “less officers per capita than law enforcement agencies nationwide, leaving residents of Indian Country less safe and subject to higher rates of crime.”<sup>66</sup>

The BIA recently conducted an analysis of law enforcement and detention needs pursuant to TLOA, and found that the total need for basic law enforcement and detention services in Indian country for FY 2018 is \$1.54 billion.<sup>67</sup> This estimate includes tribal nations in a P.L. 280 jurisdiction. Given the gross inadequacy of current funding levels, the BIA has had a policy for many years to generally provide law enforcement and detention funding only to tribal nations in non-P.L. 280 jurisdictions.<sup>68</sup> This has left tribal nations in many areas completely without BIA support for tribal police and detention needs. Congress must commit to fully funding tribal law enforcement and detention within the next five years by incrementally increasing funding each year, starting with a \$200 million increase for FY 2022.

## DEPARTMENT OF JUSTICE

### Commerce, Justice, Science Appropriations Bill

#### Tribal Grants across the Department of Justice

- *Eliminate competitive grant funding process and utilize DOJ appropriations as base funding so tribal nations can determine their own priorities*

One of the most significant challenges faced by Indian Country with DOJ funding is that it is competitive funding awarded at the DOJ’s discretion. To obtain this funding, tribal nations on behalf of their justice systems must compete against each other under DOJ’s priorities and guidelines. In the end, this funding system unfairly disadvantages tribal nations with substantial need that may lack the financial and human resources to employ experienced grant writers. Moreover, tribal nations cannot count on funding continuing beyond the often very limited current grant period. Indian Country has numerous stories of successful programs disappearing at the end of a two- or three-year grant cycle, and the short lifetime of these programs makes it nearly impossible for researchers to identify and document evidence-based best practices for Indian Country. Tribal nations have been asking for reforms to the DOJ grant-making process for years to reduce administrative inefficiencies, improve program effectiveness, and increase the ability of tribal nations to leverage available Department of the Interior (DOI) and DOJ funding to best address the comprehensive public safety and justice needs in their communities.

Beginning in 2012, Congress responded to this request from tribal leaders by appropriating a fixed amount for “tribal assistance” rather than appropriating funds for specifically authorized tribal programs at the Office of Justice Programs



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(OJP). This approach gives DOJ considerable flexibility to work with tribal nations to determine how best to administer the appropriated funds. In FY 2017, Congress shifted from a lump sum for tribal assistance to a percentage set-aside model for the first time, creating a seven percent tribal set-aside from some Office of Community Oriented Policing Services (COPS) and OJP programs. However, appropriators carved out several of the largest appropriation lines from the tribal allocation, resulting in an overall tribal funding decrease from FY 2016 levels. In FY 2018, Congress went back to the funding model used in FY 2016. The Administration's past budget request included a seven percent tribal allocation from across a wider range of OJP and COPS programs; yet, this has not been adopted. If enacted, this would help restore funding levels for DOJ tribal justice programs to a more appropriate level.

### **Office of Justice Programs (OJP)**

- *Provide a 10 percent tribal set-aside for all discretionary OJP programs, ensure that those funds, along with tribal funds outside of OJP, are allocated as flexible base funding*

A flexible tribal set-aside from across OJP programs would allow for a more effective and logical funding structure at DOJ. In 2010, the Department of Justice launched its Coordinated Tribal Assistance Solicitation (CTAS). CTAS attempts to streamline the grant application process for tribal nations that enables them to submit a single application for multiple DOJ programs, as opposed to previous years in which they were required to submit multiple grant applications. However, this streamlined application model still results in multiple grant awards with separate reporting requirements, award periods, and grant managers. Given this model, CTAS will not achieve its intended purpose of streamlining tribal grants until it is accompanied by a streamlined funding mechanism.

A 10 percent OJP tribal set-aside would give tribal nations the additional funds to develop comprehensive strategies on public safety and justice needs. It also would create new possibilities for coordinating BIA and DOJ funding to reduce inefficiencies and unnecessary administrative costs.

- *Provide a five percent tribal set-aside from Crime Victims Fund disbursements*

The Victims of Crime Act (P.L. 98-473) (VOCA) is the largest source of federal funding for crime victims. For the past five years, Congress directed a portion of the overall disbursements from the Crime Victims Fund (CVF) to tribal nations. The five percent tribal set-aside included in the FY 2021 appropriations bill will direct \$100.75 million to support and improve crime victim services on tribal lands.<sup>69</sup> This funding has the potential to transform the crime victims services infrastructure on tribal lands, and it is imperative to be appropriated on an annual basis to sustain the programs and services that will be developed. Five percent of CVF distributions must continue to be directed to tribal nations each year to ensure that tribal crime victims are able to access victim services and victim compensation. Further, the DOJ must do away with its competitive grant-making approach entirely for CVF tribal funding, and instead, make distributions directly to tribal nations based on criteria developed in consultation with tribal nations.

- *If Congress declines to adopt the flexible 10 percent set-aside across OJP programs, provide \$25 million for the Tribal Youth Program under the Juvenile Accountability Block Grants Program*

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AI/AN children are often overrepresented in juvenile justice systems.<sup>70</sup> Once in the system, they are disproportionately detained, removed from their homes, and placed in secure confinement often for non-violent offenses.<sup>71</sup> Currently, there is little financial support for tribal youth programs, justice systems, and prevention programs. Even though the statistics show that Native children are entering the juvenile justice system as a result of substance abuse and trauma, and that incarceration may not be the best option for them,<sup>72</sup> tribal nations are left to cobble together funding for alternative, non-incarceration programs. The Tribal Youth Program (TYP) under the Juvenile Accountability Block Grants (JABG) program was one of the few programs through which tribal governments could regularly receive juvenile justice funding for all functions including prevention and diversion. Congress must restore the TYP to its FY 2010 level of \$25 million.

- *Provide \$3 million for the Tribal Civil and Criminal Legal Assistance, Training, and Technical Assistance (TCCLA) grant program*

In 2000, Congress enacted the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (P.L. 106-559). Since P.L. 106-559 was enacted, DOJ awarded funding in a number of years to address one of the Act's findings that "the provision of adequate technical assistance to tribal courts and legal assistance to both individuals and tribal courts is an essential element in the development of strong tribal court systems"<sup>73</sup> by awarding grant funding under the Tribal Civil and Criminal Legal Assistance, Training, and Technical Assistance (TCCLA) program to the National Association of Indian Legal Services programs and their administering agent, the Native American Rights Fund (NARF). TCCLA has always been funded separately from DOJ's CTAS program with a portion of the overall amount of funding Congress appropriates for assistance to tribal nations through DOJ.

Services to individuals under the TCCLA include domestic violence, pro se assistance, family member prisoner visitation, re-entry and expungements of certain criminal charges, child welfare, guardianship and adoption, free legal clinics and toll-free legal advice hotlines, alternatives to incarceration, reduced sentences for juvenile delinquents, and recruitment of volunteer attorneys to provide pro bono representation to tribal citizens. The work on behalf of Native juveniles includes assistance in adoptions, Indian Child Welfare Act proceedings, delinquency proceedings, and birth certificate changes for tribal enrollment purposes.

In addition to funding of \$3 million for TCCLA grant program, Congress should enact (1) bill language that provides that a specified amount under various Office of Justice Program accounts shall be for "assistance to Indian tribes," and (2) report language that states that one purpose of such funding is for tribal civil and criminal assistance.

### **Office of Community Oriented Policing Services**

- *Provide \$52 million for tribal law enforcement programs under DOJ's Community Oriented Policing Services (COPS) Grants*

Since the creation of the COPS Office under the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), the COPS Office has awarded over 2,000 grants totaling more than \$400 million to tribal nations to hire more than 1,700 new or redeployed law enforcement officers. It has also helped tribal nations obtain necessary law enforcement training, equipment, vehicles, and technology. Through its Tribal Resources Grant Program, Tribal Methamphetamine Program, historical programs, and funding initiatives such as the Tribal Hiring Renewal Grant Program (THRGP), Tribal Mental

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Health and Community Safety Initiative, and the Tribal Court Pilot Program, the COPS Office has taken a proactive approach to addressing the needs of tribal nations. Further, the COPS Office has become one of the primary resources available to tribal law enforcement agencies for developing a policing infrastructure and upgrading outdated equipment. However, there is still a tremendous unmet need within tribal justice systems for more COPS funding.

The COPS Office acknowledged that due to limited resources, it has not been able to adequately fund tribal justice systems, particularly in the area of hiring and retaining tribal law enforcement officers.<sup>74</sup> In a report required by the TLOA, the COPS Office described its practice of intermittent funding as “problematic” especially “when referring to hiring of officers.”<sup>75</sup> Hiring more tribal police officers is a top public safety priority. In FY 2020, COPS Office tribal funding was \$27 million. NCAI urges Congress to significantly increase funding for tribal law enforcement programs under the COPS program in FY 2022.

## DEPARTMENT OF JUSTICE

### Commerce, Justice, Science Appropriations Bill Office on Violence Against Women

- *Fully fund the programs authorized in VAWA 2013, including the \$5 million authorized for tribal implementation of VAWA special domestic violence criminal jurisdiction*

Over 85 percent of AI/ANs are estimated to experience intimate partner violence, stalking, or sexual violence in their lifetime.<sup>76</sup> This violence threatens the lives of Native women, children, and the future of AI/AN tribal nations. The Office of Violence Against Women (OVW) provides funding to tribal nations to address violence against women in their communities. OVW’s largest source of funding for tribal nations is the Grants to Tribal Governments Program, which is funded via statutory allocations from other OVW programs. Fully-funding these OVW programs results in full funding for the Grants to Tribal Governments Program.

In 2013, Congress passed the Violence Against Women Reauthorization Act (VAWA 2013), which recognizes and affirms the inherent sovereign authority of tribal nations to exercise Special Domestic Violence Criminal Jurisdiction (SDVCJ) over all Indian and non-Indian persons who commit crimes of dating violence, domestic violence, and violations of protection orders within Indian country. The bill authorized \$5 million for tribal nations to implement the newly authorized VAWA provisions and otherwise strengthen tribal justice systems. In FY 2021, \$4.3 million was appropriated for these purposes. Congress must provide at least \$5 million for tribal VAWA provisions. Tribal justice systems need additional resources to exercise this important jurisdictional authority.

- *Provide \$500 thousand for the Indian Country Sexual Assault Clearinghouse*

The Office on Violence Against Women has funded a national clearinghouse on the sexual assault of AI/AN women, which provides a place where tribal nations can request free on-site training and technical assistance on a host of sexual assault-related topics, including development of tribal sexual assault and domestic violence codes, sexual assault forensic evidence collection training, and more. This clearinghouse is an important resource for tribal nations, law enforcement officials, medical professionals, and victim advocates and should continue to be funded at \$500,000 for FY 2022.



## HOMELAND SECURITY AND EMERGENCY SERVICES

Natural disasters and foreign and domestic threats to homeland security including homegrown terrorism are on the rise. These threats require tribal nations to develop and enhance homeland security response planning, training, and exercise efforts. However, funding to tribal nations for critical homeland security needs has remained insufficient to meet their minimum needs. Federal efforts to create a cohesive and coordinated homeland security strategy that does not include necessary resources for Indian country will leave a significant and potentially dangerous gap in security for the entire nation.

On June 30, 2020, the U.S. Department of Homeland Security (DHS) announced the “nearly \$1.8 billion in FY 2020 granted to assist states, local areas, tribal and territorial governments, nonprofit agencies, and the private sector with their preparedness efforts.”<sup>77</sup> Of this \$1.8 billion, roughly \$30 million went to tribal nations or 1.6% of the allocation. DHS provides \$4.9 million in preparedness grants daily to state governments and their political subdivisions. It only takes six days for the states to exceed an entire year of homeland security funding provided to tribal nations. Tribal nations’ abilities to meet a basic level of homeland security and preparedness is diminished by burdensome DHS requirements and unfunded mandates inserted into the DHS competitive grant process, which were instituted without tribal consultation. Additionally, not all 574 tribal nations can currently access DHS funding due to roadblocks placed by DHS and Congress. The U.S. Government Accountability Office in 2018 highlighted that tribal nations’ problems are compounded by the lack of tribal preparedness grant funding, which in turn limits a tribal nations’ ability to access federal funding when a disaster strikes.<sup>78</sup> In stark contrast, state governors have access to yearly federally funded state-centric programs such as the Emergency Management Assistance Compact (EMAC) and other programs, which exclude tribal nations or have no tribal set-aside.

Congress and the Administration have trust and treaty obligations to provide for the public safety and welfare of tribal nations and their citizens. These obligations are based on the longstanding nation-to-nation relations between tribal nations and the United States and are grounded in the action of tribal nations ceding lands to the United States.

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Tribal nations protect all citizens, Native and non-Native, within their jurisdictions. Tribal nations must achieve greater parity with states for homeland security and emergency management purposes. Until equitable funding is achieved, tribal nations will remain unable to protect their citizens and those that live in their jurisdictions. Until Congress addresses this stark shortfall, tribal nations cannot fully participate in national homeland security strategies.

### *Key Recommendations*

#### **DEPARTMENT OF HOMELAND SECURITY (DHS)**

##### **Homeland Security Appropriations Bill**

##### **Tribal Homeland Security Grant Program (THSGP)**

- *Provide \$40 million for the THSGP*

Since 2003, Congress allocated over \$55 billion in homeland security grant funds to state and local governments, which averages \$3.2 billion per year. In contrast, tribal nations have only been allocated just over \$95 million (\$5.5 million per year average) in federal homeland security funding during the same period. DHS has acknowledged the need for the Tribal Homeland Security Grant Program (THSGP), but has yet to provide the minimum funding needed for tribal nations to develop the necessary homeland security capacity to ensure the protection of all Americans.

Each year, tribal nations request at least \$40 million for the THSGP. Of those tribal nations that do apply for the THSGP, several could use the entire amount budgeted for the program on their own. The THSGP is the only resource for tribal nations to develop core capabilities to meet national preparedness goals. However, not all tribal nations are eligible to apply for the THSGP due to legislative limits and several DHS unfunded mandates on the program. The cost of administering the program or meeting FEMA requirements often makes the competitive grant application process a non-starter for the tribal nations that need the funding the most.

NCAI strongly urges Congress to fund the THSGP at \$40 million for the next five years and clear the way for all tribal nations to easily access the funds. This funding would constitute a meaningful and effective increase over the \$10 million that DHS made available in recent years. For the past decade, Congress has appropriated a little more than half a million per year for THSGP. Tribal nations are thankful that in recent years DHS has used discretionary funding to increase THSGP funding to \$10 million. Beginning in FY 2020, Congress appropriated \$15 million for THSGP instead of leaving the additional funding up to the discretion of DHS. Congress increasing the funding for THSGP is an important step forward for Indian Country. NCAI now urges Congress to bring THSGP up to the current tribal nation request level of \$40 million per year, which would greatly assist tribal nations in developing their homeland security and emergency management capacity. Congress must also direct DHS to allocate additional discretionary funding to tribal nations and to prioritize tribal acquisition of homeland security equipment purchased with federal grant funds and considered surplus by state and local governments.

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## DEPARTMENT OF HOMELAND SECURITY

### Homeland Security Appropriations Bill

#### Department of Homeland Security, Tribal Resiliency Continuity Program

- *Provide \$206.64 million for a Tribal Resiliency Continuity Program*

Tribal nations for years have been continuously left further behind in meeting the core homeland security and emergency management capabilities and capacities. In contrast, Congress has provided consistent funding to state and local governments for over 50 years to develop and sustain the same core capabilities and capacities. As a direct result of the federal government's ongoing investments, states and local governments were ready and prepared to navigate the complex Federal Emergency Management Agency (FEMA) processes and policies to access billions in COVID-19 disaster funds. The COVID-19 pandemic showcased how the years of failing to invest in all tribal emergency management capabilities and capacity directly prevented over 80 percent of tribal nations from accessing billions in life saving funds during the height of the pandemic. The direct outcome of years of little or no funding for tribal emergency management programs left overworked and understaffed tribal leaders to scramble in order to figure out the complex FEMA process during a pandemic that threatened to erase their nations.

In order to avoid another devastating outcome for tribal nations, Congress must provide sufficient funding for tribal nations to meet the minimum standards that have been required by the Homeland Security Act (P.L. 107-296) and the Robert T. Stafford Act (P.L. 100-707) along with those standards developed by FEMA, the National Fire Administration, the National Fire Protection Association, the Emergency Management Accreditation Program, the Joint Commission, and other experts. Tribal emergency managers estimate that a minimum of 1.5 full-time equivalents (FTE) positions would be required at each tribal nation to meet these standards and requirements, which could be covered by \$360,000 annually. This investment by the federal government would help to fulfill its trust responsibilities to tribal nations, and is estimated to provide a return on investment of six dollars for every dollar invested.<sup>79</sup> Congress must appropriate \$206.64 million to establish a Tribal Resiliency Continuity Program to empower tribal nations to build core homeland security and emergency management capabilities and capacities.

## DEPARTMENT OF HOMELAND SECURITY

### Homeland Security Appropriations Bill

#### National Tribal Homeland Security Advisory Council

- *Provide \$2 million for the creation and operation of a DHS National Tribal Advisory Council*

In June 2019, the President issued Executive Order 13875, Evaluating and Improving the Utility of Federal *Advisory Committees*,<sup>80</sup> as a means to eliminate various advisory councils across federal departments. This executive action emphasizes the importance of congressional action to ensure that tribal voices are heard during policy considerations and to ensure increased consultation with tribal nations. However, DHS is one of the largest federal agencies and does not have a National Tribal Advisory Committee to advise and make recommendations to the Secretary on homeland security matters. DHS's Homeland Security Advisory Council has not had a tribal nation representative on its panel since January 2017. DHS needs a Congressionally mandated tribal advisory council to help ensure its programs adequately support the 574 federally recognized tribal nations.



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Congress created the FEMA National Advisory Council (NAC) in the Post-Katrina Emergency Management Reform Act of 2006 to ensure effective and ongoing coordination of federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters. FEMA's NAC advises the FEMA Administrator on all aspects of emergency management. The authorizing statute requires participation from tribal government experts, and the FEMA Administrator appointed two tribal citizens to the NAC in 2017. Both of the tribal subject matter experts were reappointed in 2020.

Tribal nations are greatly concerned that the FEMA NAC cannot consider all pressing homeland security matters with only two tribal representatives on the committee. Congress must establish a DHS National Tribal Advisory Council (DHS NTAC) to support homeland security initiatives in Indian Country. Additionally, Congress should require an annual report from the DHS NTAC on projects, recommendations, accomplishments, meetings, membership, and other items. Establishing a DHS NTAC is particularly important as threats continue to change and since DHS has not made significant steps toward addressing shortfalls in its support for tribal homeland security efforts. Congress should provide \$2 million annually for the staffing, creation, and operation of a DHS TAC that would directly advise the Secretary of Homeland Security.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **Department of Homeland Security**

- *Provide \$2 million for COVID-19 after-action evaluations and reports that focus on the federal response in Indian Country*

Tribal nations are often left out of after-action evaluation and reporting of federal response activities to disasters. This has led to stagnation in policy evolution and continues to impact the challenges faced by tribal nations. Ensuring that tribal nations are integrated into COVID-19 after-action evaluations and reports will identify how systems can be improved to save lives in the future. The after-action evaluations and reports should include a look toward federal agency collaboration and cooperation to meet the needs in Indian Country. Congress must appropriate \$2 million for COVID-19 after-action evaluations and reports that focus on tribal nations and Indian Country. Congress should also require that tribal nations are directly consulted and engaged with throughout the development of the reports to ensure that they include accurate information surrounding the federal response to COVID-19 in Indian Country.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **U.S. Customs and Border Protection**

#### **Western Hemisphere Travel Initiative**

- *Provide \$10 million to tribal nations to work cooperatively with DHS in developing tribal identification cards*

Tribal nations have shown they are willing to comply with the Western Hemisphere Travel Initiative for enhanced tribal identification (ID) cards, yet compliance is often cost-prohibitive. Additionally, the Transportation Security Administration (TSA) and Customs and Border Protection (CBP) have different and evolving ID requirements. Funding tribal ID cards

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has multiple benefits, such as enabling tribal nations to provide secure tribal cards, allowing tribal government officials and citizens to continue crossing borders consistent with longstanding treaty rights and agreements, and allowing entrance to federal offices to conduct business and other matters.

Some tribal nations have the human resource and logistical capacity to produce tribal IDs but need materials and technical assistance. DHS is obligated to reach out to tribal nations to assist them when requested. In carrying out this duty, DHS must receive funding to provide equipment, tested card stock, and technical assistance to tribal nations. Many tribal nations cannot afford the \$14 or more per enhanced ID card for each of its citizens. CBP has begun to enter into agreements with tribal nations to issue ID cards. If the increase in border security continues, Congress must provide CBP with the necessary funding to provide printers, issuable card stock, and technical assistance to tribal nations. Congress must appropriate \$10 million to CBP and TSA for direct assistance to tribal nations for enhanced tribal ID efforts.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **FEMA Emergency Management Institute**

- *Provide \$1 million for tribal government emergency management training and authorize FEMA to cover up front tribal travel costs*

The FEMA Emergency Management Institute (EMI) should provide culturally relevant tribal training as tribal nations work to develop and enhance emergency management capability. FEMA released the final draft of the Robert T. Stafford Act tribal disaster declaration guidance early in January 2017. However, tribal nations still need additional training for all departmental staff for the new guidance. The EMI developed several training courses for tribal officials on enhancing tribal government emergency management capacity. The current EMI budget is insufficient to ensure the delivery of these courses in the field. NCAI urges Congress to provide FEMA with \$1 million for the delivery of critical tribal emergency management courses. Further, Congress should authorize FEMA to reimburse, schedule, and ticket travel for tribal attendees because FEMA's inability to cover travel up front currently prevents many tribal officials from participating in EMI training.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **Department of Homeland Security, Tribal Cultural Sensitivity Training**

- *Provide \$10 million for tribal nations to conduct tribal cultural sensitivity training with DHS personnel*

DHS personnel interact with tribal nations and thousands of tribal citizens every day. However, they often do not have the training for general or local tribal cultural issues, which may lead to misunderstandings, diversion of resources, and even the destruction of sacred cultural items. For example, tribal citizens may travel or even cross borders for religious or cultural purposes while transporting tribal cultural items as part of their ceremonies. When a CPB agent or TSA official encounters tribal cultural objects, they must handle them in a certain manner during inspections to avoid damaging items that are sometimes hundreds of years old. Tribal citizens often note that tribal cultural items have been confiscated or destroyed by CPB or TSA agents even when they try to explain the manner in which the item must be handled for inspection. Misunderstandings also may happen in the area of emergency management as some tribal nations are unable to lay out a disaster preparedness plan in

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a western fashion without violating tribal customs or traditions. Many tribal nations have found inventive ways to create their preparedness plans without violating their customs or traditions, but without knowledgeable FEMA personnel, the plans may be discarded and vital resources may be lost.

When DHS personnel are stationed near one or several tribal nations, they are likely to encounter the same issues repeatedly without resolution. The best entities to provide culturally specific training to DHS personnel are local tribal nations to ensure that both tribal citizens and DHS personnel are equipped with the necessary knowledge to overcome obstacles. DHS should also consult and work with tribal nations to create a mandatory general tribal cultural sensitivity training for all DHS personnel. Congress must appropriate \$10 million to enable tribal nations to conduct cultural sensitivity training for DHS personnel.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **FEMA, Tribal Emergency Management Assistance, Compact Development, and Management**

- *Provide \$4 million for tribal emergency management assistance, compact development, and management*

Congress funded the development and continues to fund the operation of the state-to-state emergency management assistance compact (EMAC), which is a mutual aid agreement between states and territories of the United States. EMAC enables states to share resources during natural and man-made disasters including terrorism. Tribal nations are not part of this agreement, and no Congressional mandate exists for them to be included. Tribal nations are often the first and in some cases the only responders to natural disasters in their jurisdictions. Tribal nations must develop their own tribal nation-to-nation emergency management assistance agreements similar to the EMAC system that Congress has provided for the states. The government-to-government relationship between tribal nations and the federal government demands such an endeavor. Eighty percent of tribal disasters are never designated federal disaster declaration status.<sup>81</sup> For this reason, Congress must appropriate \$4 million for tribal emergency management compact development to establish and operate tribal EMACs and help strengthen national homeland security by providing tribal nations a first resource between and among themselves similar to that of state-to-state EMACs.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **Department of Homeland Security**

- *Provide \$3 million for the development and delivery of homeland security and emergency management curricula at Tribal Colleges and Universities (TCUs) and tribal non-profit organizations*

Tribal Colleges and Universities (TCUs) and tribal non-profit organizations are the best resources to provide culturally appropriate homeland security and emergency management training for students in their communities. While Congress allocates significant funding to top-tier universities for research and curriculum development, almost no funding has been made available for tribal homeland security.<sup>82</sup> Often curricula are developed without the requisite tribal considerations and input, and the word “tribal” is simply inserted into such curricula, and that is the extent of tribal pedagogical or cultural considerations.<sup>83</sup> This presents major roadblocks when tribal nations are unable to use a multimillion-dollar training curriculum

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because its core requirements have completely ignored their cultural needs. An investment in culturally appropriate training needs to be made to bridge this gap and build more resilient tribal communities. Moreover, funding TCUs and tribal non-profit organizations to provide local training is an efficient and cost-effective mechanism to train local responders. For these reasons, we request that Congress provide \$3 million for tribal nation emergency management training through TCUs and tribal non-profit organizations.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **Department of Homeland Security**

- *Provide \$2 million for Tribal Homeland Security Centers of Excellence*

Congress funded the establishment of homeland security centers of excellence to develop approaches for ensuring homeland security in prevention, protection, response, recovery, and mitigation. The centers are state-centric and do not consider culturally appropriate pedagogy or approaches. The creation of tribally run and operated centers of excellence at tribal colleges or by federally recognized tribal nations or consortia of tribal nations will support tribal nations in developing community-based, relevant, and culturally appropriate strategies, training, and exercises. Some tribal nations have shared their plans to establish such institutions and this funding request would support at least two of these centers in congressional districts that have significant populations of AI/ANs or a significant number of tribal nations. Congress must appropriate \$2 million for the establishment of tribal homeland security centers of excellence.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **Cybersecurity and Infrastructure Security Agency**

- *Provide \$5 million to support Tribal Cybersecurity Resilience*

The DHS Cybersecurity and Infrastructure Security Agency (CISA) is at the heart of the United States' efforts to understand and manage risk to critical infrastructure and cybersecurity across the country. CISA's current approach to developing and identifying critical infrastructure in the United States is primarily based on a state-centric approach, which has left out tribal nations and their vital facilities. CISA should engage with tribal nations to address the critical infrastructure and cybersecurity needs of Indian Country. Tribal nations' health services, social services, education, and public safety services are bound to cyberinfrastructure and many are weak against cyber-attacks. The lack of cybersecurity in Indian Country puts tribal nations in vulnerable positions and makes their citizens targets for homegrown terrorism and international crime organizations. Congress must appropriate \$5 million to CISA to evaluate and identify tribal infrastructure and cybersecurity deficiencies and estimate costs to resolve each identified deficiency.

## **DEPARTMENT OF HOMELAND SECURITY**

### **Homeland Security Appropriations Bill**

#### **FEMA National Response Coordination Center**

- *Provide \$2 million for the staffing and functioning of the tribal desks*

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The FEMA National Response Coordination Center (NRCC) has a position in its organization for a tribal representative, which is rarely utilized to ensure a forward approach to disasters in Indian Country. When the position is filled, it is generally staffed by FEMA tribal affairs personnel. The NRCC needs the resources to hire tribal personnel or utilize the Intergovernmental Personnel Act for adequate and appropriate staffing of tribal representative positions at the national and regional levels. FEMA should be authorized to provide this funding to any other federal agencies that might carry out these activities, such as the BIA emergency management program in its Office of Justice Services. Congress must appropriate \$2 million for the staffing and functioning of tribal representative positions and authorize FEMA to transfer funds to other federal departments that assist in carrying out tribal activities at the national and regional levels.

## **DEPARTMENT OF THE INTERIOR**

### **Interior, Environment, and Related Agencies**

#### **Department of Interior, Bureau Indian Affairs**

- *Provide \$4 million for the development and support of the disaster response coordinating structure*

The May 2013 Tribal Relations Support Annex identifies the Bureau of Indian Affairs (BIA) as a cooperating agency to support the tribal assistance coordination element.<sup>84</sup> BIA is charged with coordinating interagency emergency management activities related to tribal affairs to include coordinating with and among tribal nations, federal agencies, states, and other jurisdictions to enhance the preparedness and resilience of tribal communities for disasters and support response activities during incidents. During the COVID-19 response, it became evident that improvements were needed to this coordinating process and the national planning frameworks. Allocating an appropriate level of resources for the BIA to adequately identify and recommend changes to planning and coordination efforts in coordination with other cooperating agencies will strengthen the Bureau's emergency management functions. Congress must appropriate \$4 million to the BIA to develop and support the disaster response coordinating structure. Additionally, Congress should require the BIA, in consultation with tribal nations, to issue a detailed report on tribal emergency management and the existing responsibilities and authorities for the BIA.



## EDUCATION

Access to quality education is even more important today than it has ever been. It is an essential strategy for creating jobs and securing the nation's future prosperity – particularly in tribal communities. An educated citizenry serves as a catalyst to boost tribal economic productivity and growth through a more skilled and competitive workforce, which can attract new businesses, reduce rampant high unemployment, stimulate tribal economies through direct spending, and foster entrepreneurial endeavors that enable tribal citizens to become more self-sufficient. Education supports personal development and wellness, which in turn increases social welfare and empowers tribal communities, which is essential to protecting and advancing tribal sovereignty.

To give tribal nations the necessary foundation for economic success and prosperity, the federal government must live up to its trust and treaty responsibilities by adequately supporting a quality education for Native people and strengthening tribal self-determination in that education. The requests below detail the minimum funding needed to dramatically improve a system that is currently underfunded and struggling.

### DEPARTMENT OF EDUCATION

#### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Title I, Part A of the Every Student Succeeds Act (ESSA) Local Education Agency Grants

- *Provide \$20 billion for Local Education Agency Grants*

Title I of the Every Student Succeeds Act (P.L. 114-95) (ESSA) provides critical financial assistance to local education agencies (LEAs) and schools with high percentages of children from low-income families, with the design and goal to ensure all children meet challenging state academic standards. Currently, there are approximately 600,000 Native students across the country, with a vast majority attending non-federal institutions, such as traditional public schools in rural and urban locations.<sup>85</sup> A drastic increase in funding to counter annual inflation, as well as to match the amount appropriated under the American



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Reinvestment and Recovery Act (P.L. 111-5) (ARRA), is necessary to meet the needs of Native students and students from low-income families.

## **DEPARTMENT OF EDUCATION**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill Student Assessment Systems under ESSA**

- *Provide \$20 million for assessment maintenance under ESSA*

Under the No Child Left Behind Act (P.L. 107-110), schools within the Bureau of Indian Education (BIE) participated in the assessment systems of the state in which they are located. Due to differences in state laws and assessment systems, this policy resulted in long-term delays and challenges ensuring student progress and achievement across the system. ESSA requires the BIE to define academic standards and develop an assessments system for BIE-funded schools through a negotiated rulemaking process. The Bureau of Indian Education (BIE) currently receives approximately \$1.8 million annually through Title I-B of ESSA to support student assessments, which has proven grossly inadequate and led to unacceptable student outcomes. Congress must provide \$20 million to the BIE to develop and maintain high-quality, culturally relevant assessment systems that accurately measure the progress of Native students, as required by statute.

## **DEPARTMENT OF EDUCATION**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill Section 6131 of ESSA**

- *Provide \$5 million for the State-Tribal Education Partnership Program*

Native education researchers, experts, and advocates have long called for Native control of Native education. The State-Tribal Education Partnership Program (STEP) program is Congress's recognition of the call for tribal leadership in education. In 2016 and 2017, Congress appropriated roughly \$2 million dollars for the STEP program to five participating tribal nations under the Tribal Education Departments appropriations. For tribal control of education to continue to succeed, the program should be funded at \$5 million in appropriations in FY 2022. Collaboration between tribal education agencies and local and state educational agencies is crucial to developing the tribal capacity to assume the roles, responsibilities, and accountability required of tribal education departments and to increase tribal self-governance over the education of Native students. Under ESSA, state, tribal, and local control is the clear trend. Funding STEP is a critical extension of the principle of local self-governance and sovereignty.

## **DEPARTMENT OF EDUCATION**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill Impact Aid**

- *Provide \$2 billion for Impact Aid, Title VII funding under ESSA*

Impact Aid provides direct payments to public school districts as reimbursement for the loss of traditional property taxes due to a federal presence or activity, including the existence of an Indian reservation. With nearly 93 percent of Native students

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enrolled in public schools, Impact Aid provides essential funding for schools serving Native students. Funding for Impact Aid must not be less than this requested amount. Furthermore, Impact Aid should be converted to a forward-funded program to eliminate the need for cost transfers and other funding issues at a future date.

## **DEPARTMENT OF EDUCATION**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill**

#### **Title VI, Part A of ESSA**

- *Provide \$198 million for Title VI, Part A, Indian Education Formula Grants*

An increase is needed for Indian Education Formula Grants, as this critical funding is designed to supplement the regular school program by supporting Native students so they have the opportunity to achieve the same educational standards and attain parity with their non-Native peers. Title VI funds support early-childhood and family programs, academic enrichment programs, curriculum development, professional development, and culturally-related activities. Increased funding is necessary to address the substantial gap in educational achievement between Native and non-Native students.

## **DEPARTMENT OF EDUCATION**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill**

#### **Title VI, Part C of ESSA**

- *Provide \$44 million for Alaska Native Education Equity Assistance Program*

An increase is needed as this assistance program funds the development of curricula and education programs that address the unique educational needs of Alaska Native students, as well as the development and operation of student enrichment programs in science and mathematics. This funding is crucial to closing the gap between Alaska Native students and their non-Native peers, as eligible activities include professional development for educators, activities carried out through Even Start Programs and Head Start programs, family literacy services, and dropout prevention programs.

## **DEPARTMENT OF EDUCATION**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill**

#### **Title VI, Part B of ESSA**

- *Provide \$44 million for the Native Hawaiian Education Program*

This grant program funds the development of curricula and education programs that address the unique needs of Native Hawaiian students to help bring equity to this population. The Native Hawaiian Education Program empowers innovative, culturally appropriate programs to enhance the quality of education for Native Hawaiians. These programs strengthen the Native Hawaiian culture and improve educational attainment, both of which are correlated with positive economic outcomes.

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## DEPARTMENT OF EDUCATION

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Title VI, Part A, Subpart 3 of ESSA

- *Provide \$13 million total for Title VI, Part A, Subpart 3 funding, with \$5 million for Language Immersion Grants, in addition to the 20 percent set-aside from National Activities*

ESSA promotes co-existence of Immersion Schools through Section 6133, which recognizes the unique educational and culturally related academic needs of Native children. Section 6133 includes Native languages as an educational option for the medium of instruction where tribal communities have the capacity and desire to engage in immersion instruction. Providing \$5 million to this program – in addition the 20 percent set-aside – is critical to furthering the federal government’s commitment to improving the educational outcomes of American Indian and Alaska Native students. Congress recognized this critical role by including authorization for immersion schools for the first time. Extensive research over decades, along with strong support from tribal leaders and Native advocates across the country, make providing \$5 million for this program – above and beyond the 20 percent set-aside – a high priority.

## DEPARTMENT OF EDUCATION

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Title VI, Part A, Subpart 2 of ESSA

- *Provide \$68 million for Special Programs for Indian Children*

In Title VI of ESSA, Congress continued demonstration grant funding and professional development funding to meet the needs of Native students and newly authorized funding to serve Native youth through grants for culturally appropriate education. This program addresses the critical issues of teacher shortages, evidence-based work at the state and local level, and locally driven strategies to empower Native youth. These professional development grants are essential to improving teaching in rural communities and are consistent with ESSA’s movement toward state-driven work. The Native Youth Community Projects are critical in helping Native communities at the local level via small, competitive grants that seek to engage youth in high-need areas.

## DEPARTMENT OF EDUCATION

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Tribal Colleges and Universities: Supporting Financially Disadvantaged Students

- *Provide \$45 million for Title III, Part A discretionary grants and \$30 million for Title III, Part F mandatory grants under the Higher Education Act for Tribal Colleges and Universities*

The Strengthening Institutions (Title III) of the Higher Education Act (P.L. 89-326) provides essential formula-based aid to TCUs. The program consists of two parts: discretionary grant funding through Title III, Part A; and mandatory grant funding through Title III, Part F. The goal of the Strengthening Institutions program is “to improve the academic quality, institutional management and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.”<sup>86</sup> TCUs are employing these funds to address the critical, unmet needs of their students (who are primarily American Indian and Alaska Native) to effectively prepare them to succeed in a globally competitive workforce.

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## DEPARTMENT OF EDUCATION

### Labor, HHS, Education, and Related Agencies Appropriations Bill Tribally Controlled Post-Secondary Career and Technical Institutions

- *Provide \$15 million for tribally controlled post-secondary career and technical institutions program funds under the Carl Perkins Career and Technical Education Improvement Act*

Section 117 of the Carl Perkins Career and Technical Education Improvement Act (P.L. 109-270) authorizes funding for operations at tribally controlled postsecondary career and technical institutions. Vocational education and training programs are vital to preparing a future workforce that will operate safely and efficiently, contributing significantly to the global economy.

## SHARED RESPONSIBILITY:

## DEPARTMENT OF EDUCATION AND DEPARTMENT OF THE INTERIOR

### Labor, HHS, Education, and Related Agencies Appropriations Bill and Interior, Environment, and Related Agencies Appropriations Bill Tribal Education Agencies/Departments

- *Provide \$20 million (\$10 million through the Department of Education and \$10 million through the Department of the Interior) to fund Tribal Education Agencies*

A total of \$10 million should be appropriated to the Department of Education (ED), and \$10 million should be appropriated to DOI to support tribal education agencies (TEAs), which are uniquely situated at the local level to implement innovative education programs that improve Native education. Because they are administered by tribal nations, TEAs are best equipped to deliver education programs tailored to improve education parity for Native students. TEAs would use this much-needed funding to develop academic standards, assess student progress, and create math and science programs that set high academic standards for students in tribal, public, and BIE schools. Tribal nations exercising self-governance over education have proven quite successful because they better understand the circumstances of their populations and can develop initiatives that meet local needs.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$1 billion for BIE Education Construction*

This funding activity includes Replacement School Construction, Replacement Facility Construction, Replacement/New Employee Housing, Employee Housing Repair, and Facilities Improvement & Repair.<sup>87</sup> Schools operating within the BIE system are woefully outdated and, in some cases, dangerous for students and staff. At the end of FY 2019, BIE reported 71 schools in poor condition,<sup>88</sup> which puts Native students at a significant, unfair disadvantage. DOI's Office of Inspector General published in September 2016 an evaluation titled "Condition of Indian School Facilities," which determined the cost of replacing or rehabilitating BIE school facilities exceeded \$4.6 billion.<sup>89</sup>

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## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$525 million for TCU construction, renovation, and infrastructure development*

We urge Congress to fund Section 113 of the Tribal Colleges Act and establish a new infrastructure development program for TCUs. A key part of the mission of TCUs is to prepare American Indians and Alaska Natives and other rural community members to be productive members of the nation's workforce. For TCUs to realize this goal, they must have the facilities necessary to educate and train students for 21st-century jobs. A recent survey of TCU needs revealed a list of chronic facilities-related maintenance and rehabilitation needs, including student and facility housing, classrooms, libraries, and laboratories.<sup>90</sup> TCUs have an estimated total need of \$500 million in deferred maintenance and rehabilitation; they also need \$837 million to fully implement existing infrastructure plans.<sup>91</sup>

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$230 million for the Johnson O'Malley (JOM) Program (TPA)*

The JOM program has provided grants to supplement basic student needs since 1934. It is currently being used across the country in innovative ways to assist with the unique educational and cultural needs of Native students. The federal government allocated \$98 per student in JOM funding in 1995.<sup>92</sup> In today's dollars, factoring in inflation, that was \$168 per student.<sup>93</sup> However, that investment has steadily declined, and current funding would provide less than \$36 per student, based on BIE utilizing the most recent U.S. Department of Education-National Center for Education Statistics, 5-year estimate data. This per pupil amount is less than one quarter of the value of what was originally appropriated in 1995.<sup>94</sup> This funding is oftentimes the only source through which Native students – including those in public schools – can engage in basic cultural education activities. Additional funds are needed to begin to address this drastic disparity.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$73 million for the Student Transportation program*

BIE schools incur significant costs in transporting Native students to and from school. These costs are considerably higher than most school systems due to the often remote location of BIE facilities.<sup>95</sup> Additionally, the poor condition of the roads that students, staff, and families must travel to reach BIE-funded schools increase vehicle maintenance costs. These high costs often lead to funding shortfalls, which then must either go unpaid or be funded by diverting funds from other education programs.

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## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$90 million for Tribal Grant Support Costs*

Tribal Grant Support Costs fund the administrative costs of existing tribally operated schools. It is critical that tribal governments are funded at the same level as the federal government when they exercise self-governance and tribal control over education programs by allocating funding for administrative costs such as accounting, payroll, and other legal requirements. Schools must divert critical teaching and learning funding to cover any shortfalls in operational costs. Fully funding Tribal Grant Support Costs is consistent with NCAI Resolution #PSP-09-048 and is the key to supporting tribal self-determination in education.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$109 million for BIE Facilities Operations*

BIE schools use this funding for costs such as electricity, heating fuels, communications, vehicle rentals from the General Services Administration, custodial services, and other operating expenses. For years, schools have only received roughly 70 percent of funding needed for these expenses.<sup>96</sup> This shortfall is unacceptable as costs continue to rise for vital services.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$725 million for BIE Facilities Maintenance*

BIE schools use this funding for both preventative and routine upkeep, as well as for unscheduled maintenance of school buildings, grounds, and utility systems. Underfunding of maintenance continues to be an issue as buildings are in poor conditions and cannot maintain proper standards. DOI's Assistant Secretary for Management testified before the House Committee on Appropriations in July 2019 that the total identified deferred maintenance for education facilities and education quarters was \$725 million.<sup>97</sup>

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$473 million for the Indian School Equalization Formula*

These funds provide the core budget account for BIE elementary and secondary schools by covering salaries for teachers, aides, principals, and other personnel. Indian School Equalization Program (ISEP) funds are often reallocated to cover the



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program cuts in other areas of education.<sup>98</sup> ISEP must have adequate funding to ensure all program needs are fulfilled and must not be reduced to provide funds for new initiatives that have not been vetted by tribal nations.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$120 million for Education Management: Education IT*

According to the Federal Communications Commission's 2019 report on Broadband Deployment in Indian Country, 36 percent of households on tribal lands lack access to fixed broadband;<sup>99</sup> however, a 2018 GAO report identifies flaws in broadband deployment reporting, indicating that the lack of broadband in tribal communities is even greater than the FCC reports.<sup>100</sup> This lack of broadband access has a significant impact in BIE-funded schools. NCAI seeks adequate funding to ensure that BIE-funded schools have broadband access as well as the computers and software necessary to administer online assessments, and that school staff receive appropriate resources and training. In future fiscal years, ongoing funding will be needed to maintain and update this investment in Education IT infrastructure. The federal government must commit to sustained funding and broadband access to ensure that BIE-funded schools can meet the needs of a modern learning environment.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$5 million for BIE immersion Demonstration Grants*

According to the United Nations Educational, Scientific and Cultural Organization (UNESCO), 74 Native languages stand to disappear in the next decade, with only 20 Native languages being spoken by 2050.<sup>101</sup> Funding under the BIE reform efforts should strengthen tribal sovereignty to increase capacity to support Native language immersion schools, and provide Native students equal access to learning their culture and languages. Providing Immersion Demonstration Grant funds would protect the cultural and linguistic heritage of Native students in education systems by providing Native students immersion learning to strengthen their language, improve academic outcomes, and become future leaders of their tribal nations.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Education

- *Provide \$620 thousand for Juvenile Detention Center Education in BIA-funded facilities*

These critical funds were reinstated in FY 2016 at \$500,000, reflecting the bipartisan support for funding to address juvenile justice issues.<sup>102</sup> Funding the program at \$620,000 is essential for providing educational services to detained and incarcerated youth at 23 BIA-funded juvenile detention facilities. One of the best methods to rehabilitate individuals is through education,<sup>103</sup> and eliminating this program creates additional costs by increasing the rate of criminal recidivism.<sup>104</sup>

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## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill

#### Bureau of Indian Education

- *Provide \$93.257 million for Titles I, II, and III and the technical assistance contract under the Tribally Controlled Colleges and Universities Assistance Act*

**TITLE I:** To fund the Tribally Controlled Colleges and Universities Assistance Act of 1978 (P.L. 95-471) (Tribal Colleges Act), which provides day-to-day operating funds for 28 TCUs, would require \$82 million.<sup>105</sup> The education of Native students is a trust responsibility of the federal government. For many Native students, TCUs are their primary means of receiving a higher education. Accordingly, since the Tribal Colleges Act was first funded in 1981, the number of TCUs has more than quadrupled, and enrollments have increased by more than 325 percent.<sup>106</sup> Despite this increase in student population, TCUs have never received the authorized level of operational funding of \$8,000 per student and are currently receiving \$7,356 per student.<sup>107</sup>

**TITLE II:** Diné College has a need for \$17 million to operate its campuses on the Navajo Nation in Arizona and New Mexico.

**TITLE III/TECHNICAL ASSISTANCE:** \$701,000 is needed to level fund critical technical assistance (which has not been increased since FY 2006) and to assist TCUs in establishing endowments.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill

#### Institute of American Indian Arts and Center for Lifelong Education and Museum (AIANNH Culture and Art Development Act)

- *Provide \$10.71 million for the Institute of American Indian Arts and Center for Lifelong Education and Museum*

The Institute of American Indian Arts (IAIA) is a federally chartered, accredited, non-profit educational institution whose mission is to serve as a multi-tribal center of higher education for Native Americans.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill

#### Bureau of Indian Education

- *Provide \$28 million for Haskell Indian Nations University and Southwest Indian Polytechnic Institute (Haskell & SIPI) (forward funded)*

The BIE owns and operates two tribal post-secondary institutions: Haskell Indian Nations University (Haskell) located in Lawrence, Kansas, and Southwestern Indian Polytechnic Institute (SIPI) located in Albuquerque, New Mexico. Both require an appropriate level of funding, and Congress must appropriate \$28 million.

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## DEPARTMENT OF AGRICULTURE

### Agriculture, Rural Development, FDA, and Related Agencies Appropriations Bill National Institute for Food and Agriculture 1994 Land-Grant Institutions (TCUs)

In 1994, TCUs achieved federal Land-Grant status through the passage of the Equity in Educational Land-Grant Status Act (P.L. 103-382). However, the 35 TCU Land-Grant Institutions are still not recognized or funded as full partners in the nation's Land-Grant system. Serious inequities exist and as a result, their full potential remains unrealized. Appropriations at the requested levels outlined below for each of the 1994 Land-Grant institution programs is a small but critical step in addressing disparities that exist in the current Land-Grant system.

Through the recent reauthorization of the Farm Bill (the Agriculture Improvement Act of 2018 (P.L. 115-334), Red Lake Nation College (RLNC) was designated as a 1994 Land-Grant institution, bringing the total to 35. With the addition of RLNC, funding distributed by formula must be increased to accommodate new institutions.

#### 1994 Extension Program

- *Provide \$10 million for the 1994 Extension Grants Program*

The 1994 Extension Program is designed to complement the Federally Recognized Tribe Extension Program (FRTEP). The 1994 Extension Program activities include: outreach to at-risk youth; business skills development for local agriculture entrepreneurs; Native plant restoration and horticulture projects; environmental analysis and water quality projects; and nutrition projects aimed at addressing health disparities, such as high rates of diabetes among Native populations. Congress must adequately invest in the 1994 Extension Programs serving reservation communities.

#### 1994 Research Grants

- *Provide \$5.8 million for the 1994 Research Grants Program*

The 1994 Research Grants Program allows TCUs to partner with other Land-Grant Institutions in research areas such as agriculture marketing, renewable energy, nutrition and health, Native plants and horticulture, water quality, and land management. These research areas are of increasing importance as tribal economic development and other tribal efforts to address pressing challenges depend on access to quality data and evidence. These challenges include the disproportionate impacts of climate change on tribal lands and people, as well as the impact of poor economic conditions. TCUs need and deserve a level of funding that will increase their capacity for further developing and conducting research and for strengthening education and sustainable economic development important to their tribal communities.

#### 1994 Educational Equity Grant Program

- *Provide \$6 million in Educational Equity Grant Program funding for 1994 Land-Grant Institutions*

The Education Equity Grant Program assists TCU Land-Grant Institutions to establish academic programs within the field of agriculture that explore areas such as natural resource management, nutrition, environmental science, horticulture, sustainable development, and forestry. The funding requested will help in preparing to address issues of climate change and its impact on agriculture, ecosystems, and natural resources focusing on remote reservation communities. Through the recent

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reauthorization of the Farm Bill (the Agriculture Improvement Act of 2018 (P.L. 115-334)), Red Lake Nation College (RLNC) was designated as a 1994 Land-Grant Institution, bringing the total to 35. With the addition of RLNC, funding distributed by formula, such as this program, must be increased to accommodate new institutions.

### **1994 Native American Institutions Endowment Fund (Corpus Payment)**

- *Provide a \$17 million payment to the corpus of the 1994 Land-Grant Institutions Native American Endowment Fund*

The Native American Institutions Endowment Fund, housed and administered by the U.S. Treasury, provides funds to TCU Land-Grant Institutions through dissemination of the annual interest yield. Although Congress has made regular contributions to the corpus of the endowment, the latest interest yield shared by the 35 eligible 1994 institutions amounts to approximately \$4.6 million (FY 2018).

These funds assist in strengthening academic programs, including agriculture curricula development, faculty development, instructional delivery, and experiential learning. Funds are also used to enhance student recruitment and retention in the agricultural sciences, as well as to address the ongoing need for improved facilities at 1994 Land-Grant Institutions. From the annual interest yield, an administrative fee of four percent is deducted by the Department of Agriculture, and the remainder is distributed to the 1994 Land-Grant Institutions.<sup>108</sup> Because only the annual interest yield is dispensed, only the interest – not the appropriated payment amount – is scored as budget outlay. The additional interest available to the TCU Land-Grant Institutions (1994) will yield dividends in community-based programs.

### **Rural Development: Essential Community Facilities at Tribal Colleges and Universities Grant Program**

- *Provide \$10 million for the TCU Essential Community Facilities Grant Program*

The USDA-Rural Development program provides grants for Essential Community Facilities at TCUs and funds the ever-growing need for construction, improvement, and maintenance of TCU facilities, such as advanced science laboratories, computer labs, student/faculty housing, day care centers, and community service facilities. Although the situation has improved at many TCUs over the past several years, some institutions still operate partially in temporary and inadequate buildings.<sup>109</sup> Few TCUs have dormitories, even fewer have student health centers, and only a handful of TCUs have full research laboratories. The 1994 Land-Grant Institutions need a commitment of \$10 million each year to support construction, improvement, and maintenance of their facilities.

## **DEPARTMENT OF AGRICULTURE**

### **Agriculture, Rural Development, FDA, and Related Agencies Appropriations Bill Rural Utilities Service**

- *Provide \$24 million for TCUS's Rural Utilities Services Fund*

The USDA Rural Utilities Service (RUS) provides funding to support a variety of critical infrastructure improvements in rural communities, including telecommunications and broadband services. Congress should establish a permanent, \$24 million annual set-aside for TCUs under the USDA Rural Utilities Service to better serve TCUs as rural, community-based, and

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under-resourced institutions. Over the past several years, telecommunications and broadband funding has gone unused under the RUS program. A permanent \$24 million set-aside for TCUs, which are 1994 Land-Grant institutions served by USDA, could be established at no additional cost using existing funds.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill Head Start Program

- *Provide \$10.81 billion for Head Start, which includes Indian Head Start*

Head Start has played and continues to play an instrumental role in Native education. Head Start funds provide early education to more than 24,000 Native children. This vital program combines education, health, and family services to model traditional Native education, which accounts for its success rate. However, as inflation and fiscal constraints increase, current funding dollars provide less for Native populations. There is a return in benefit to society of at least \$7 for every \$1 invested in Head Start.<sup>110</sup> Therefore, Congress should increase funds to Head Start and Early Head Start to ensure Indian Head Start can reach more tribal communities and help more Native people by triggering the Indian special expansion funding provisions (after a full Cost of Living Allowance has been paid to all Head Start programs).

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill Head Start, Tribal Colleges and Universities Head Start Partnership Program

- *Provide \$8 million for Tribal Colleges and Universities Head Start Partnership Program*

The TCU-Head Start Partnership Program, as reauthorized in the Improving Head Start for School Readiness Act of 2007 (P.L. 110-134), supported TCUs in providing high-quality, culturally appropriate training for teachers and workers in Indian Head Start programs. With the reauthorization of the Head Start program in the mid-1990s, Congress mandated that by 2013, 50 percent of Head Start teachers nationwide must at a minimum hold a baccalaureate degree in Early Childhood Education and all teacher assistants must have a child development associate credential or be enrolled in an associate's degree program.<sup>111</sup> In 2017, 75 percent of Head Start teachers nationwide held the required bachelor's degree; but less than 42 percent of Head Start teachers in Indian Country met the requirement; meanwhile, only 70 percent of workers in Indian Country met the associate-level requirements or were enrolled in associate's degree programs, compared to 90 percent nationally.<sup>112</sup> This disparity in preparation and teaching demands our attention. American Indian and Alaska Native (AI/AN) children deserve – and desperately need – qualified teachers. TCUs are ideal catalysts for addressing this issue. From 2000 to 2007, HHS provided modest funding for the TCU-Head Start Program, which helped TCUs build capacity in early childhood education by providing scholarships and stipends for Indian Head Start teachers and teacher's aides to enroll in TCU early childhood programs. Before the program ended in 2007, TCUs had trained more than 400 Head Start workers and teachers, many of whom have since left for higher-paying jobs in elementary schools. Today, TCUs are providing culturally based early childhood education free of charge to local Head Start workers. With restoration of this modestly funded program, similar programs could be available to the teachers and aides throughout Indian Country.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill Native Languages Preservation (Esther Martinez Program Grants)

- *Provide \$15 million for Native language programs and \$13 million for Esther Martinez Language Immersion Programs*

Native language grant programs are essential to revitalizing Native languages, many of which are at risk of disappearing in the next decade.<sup>113</sup> With adequate funding, Esther Martinez Program Grants support and strengthen Native American language immersion programs. In addition to protecting Native languages, these immersion programs have been shown to promote higher academic success for participating students in comparison to their Native peers who do not participate.<sup>114</sup> The federal budget should include \$15 million as part of the appropriation to the Administration for Native Americans for Native language preservation activities. The appropriation also should include \$13 million designated to support the Esther Martinez Language Programs' language immersion initiatives, as they have demonstrated success in strengthening Native language revitalization.

## DEPARTMENT OF ENERGY – NATIONAL NUCLEAR SECURITY ADMINISTRATION (NNSA)

### Energy and Water Development Appropriations Bill

- *Provide \$5 million for the Tribal Colleges and Universities Program under the Minority Serving Institutions Partnership Program (MSIPP)*

Currently funded through MSIPP, the AIHEC/TCU Advanced Manufacturing Network Initiative (AMNI) is an innovative training and education program at five TCUs. The goal is to develop an American Indian/Alaska Native advanced manufacturing technical and engineering workforce through certificate and four-year degree programs. The initiative facilitates partnerships between tribal nations, TCUs, National Laboratories, and industry partners to create new reservation-based economic and employment opportunities through the design, manufacture, and marketing of high-quality products. The AMNI project is an impactful TCU science and technology initiative that has the potential to create new jobs in Indian Country and help federal agencies fill critical STEM research and development vacancies, but to date, NNSA has not allocated funding to expand the program beyond the original five TCUs. Without continued funding, Native students may not have the opportunity to train for vitally needed STEM careers.

## NATIONAL SCIENCE FOUNDATION

### Commerce, Justice, Science, and Related Agencies Appropriations Bill Education and Human Resources (EHR)

- *Provide \$20 million to the Tribal Colleges and Universities Program*

In FY 2017, NSF awarded \$5.558 billion in research and education funding to the nation's higher education institutions.<sup>115</sup> TCUs received \$13.8 million of this funding, or less than one-fourth of one percent.<sup>116</sup> Although the title of this program is TCU-specific, NSF also allows Alaska Native and Native Hawaiian-serving institutions to compete for funding under this program, thereby further reducing TCUs' chances for accessing these funds. This disproportionate distribution trend has yet to be recognized and addressed.



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The NSF TCU program (NSF-TCUP), which is administered and modestly funded through Education Human Resources (EHR), is a competitive grant program that enables TCUs to enhance the quality of their STEM instructional, research, and outreach initiatives. NSF-TCUP grantees complete a comprehensive STEM program needs analysis as a basis for developing programs that are responsive to both local and national STEM workforce and research priorities. Through NSF-TCUP, TCUs establish and maintain programs that represent a key component of the career pipeline for the American Indian/Alaska Native STEM workforce.



## HEALTHCARE

### Reducing Disparities in the Federal Healthcare Budget

The federal government's obligation to provide healthcare was prepaid by tribal nations. The United States assumed this responsibility through a series of treaties with tribal nations, exchanging compensation and benefits for tribal nations' land and resources, and to obtain peace. The Snyder Act of 1921 (25 U.S.C. § 13) legislatively affirmed this trust responsibility. To facilitate upholding its responsibility, the federal government created the Indian Health Service (IHS), removing responsibility for tribal healthcare from the War Department, and tasked the agency with providing health services to American Indians and Alaska Natives (AI/ANs).

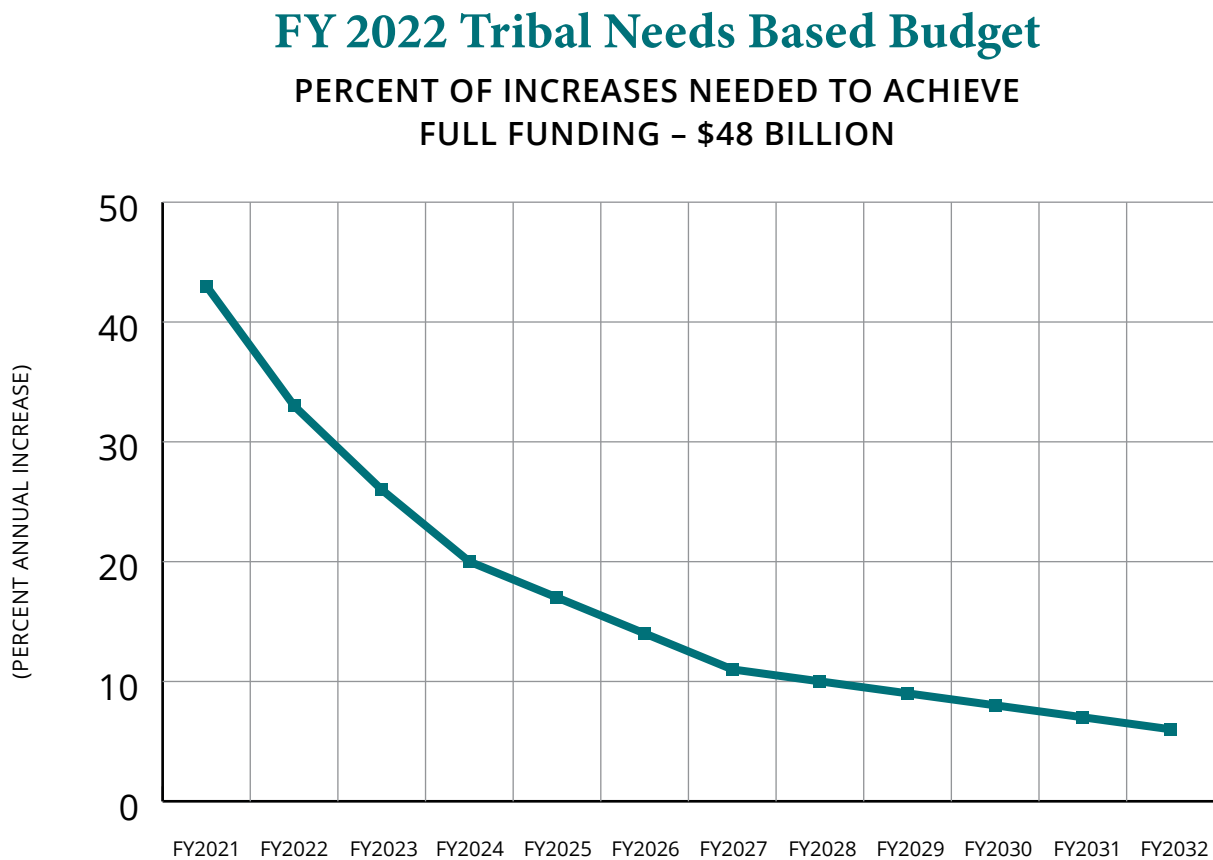
Yet, the federal government has never met this responsibility. Appropriations for IHS have never been adequate to meet basic patient needs, and healthcare is delivered in developing country conditions. The Indian healthcare delivery system faces significant funding disparities, notably in per capita spending between IHS and other federal healthcare programs.<sup>117</sup> IHS has been and continues to be a critical institution in securing the health and wellness of tribal communities. In FY 2018, IHS per capita spending for patient health services was just \$3,779, compared to \$9,409 per person for healthcare spending nationally.<sup>118</sup> New healthcare insurance opportunities and expanded Medicaid in some states may increase healthcare resources available to AI/ANs. However, these new opportunities are no substitute for fulfillment of the federal trust responsibility, and the budget gap will remain. The FY 2022 budget for IHS should support tribal self-determination, uphold the trust relationship, and work to reduce health disparities for AI/ANs.

The Indian Health Care Improvement Act's (P.L. 111-148) (IHCIA) enactment and permanent authorization in 2010 provided a foundation for tribal nations, tribal organizations, and Urban Indian Organizations (UIOs) to protect Indian health by advocating for appropriations for authorized programs. In renewing the IHCIA, Congress reaffirmed the duty of the federal government to AI/ANs, declaring that "it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians."<sup>119</sup> Presently, IHS has never received sufficient appropriations to fully honor the new authorities

promised within the IHCIA, and AI/ANs continue to live with health disparities that are far worse than the rest of the U.S. population.

The underfunded status of the Indian healthcare system has resulted in a health crisis within tribal communities. Infant mortality, suicides, and preventable deaths plague tribal communities.<sup>120</sup> Treatment of chronic diseases like diabetes, autoimmune deficiencies, cancer, and heart disease quickly erode our limited resources, leaving few dollars for prevention. Further, failing infrastructure creates unsafe and unsanitary living conditions and severely compromises the quality of care.<sup>121</sup> Aging facilities and the lack of resources to modernize equipment and health information technology has created a dire need for large investments in basic infrastructure, including housing for health professionals who want to work in our communities but have no place to stay.

**Figure 3.1: FY 2022 Tribal Needs-Based Budget: Percent of Increases Needed to Achieve Full Funding in 12 Years**



For the IHS budget to grow sufficiently to meet the documented needs of tribal nations over a 12-year period, the federal government must begin to address the need of \$48 billion, based on the FY 2018 estimate of 3.04 million AI/ANs eligible to be served by IHS, Tribal, and Urban health programs.

The requests listed below focus on specific increases to IHS that reflect both the priorities of the Tribal Budget Formulation Workgroup, which features representatives from the 12 IHS Areas, and the Agency-wide goals expressed by IHS.

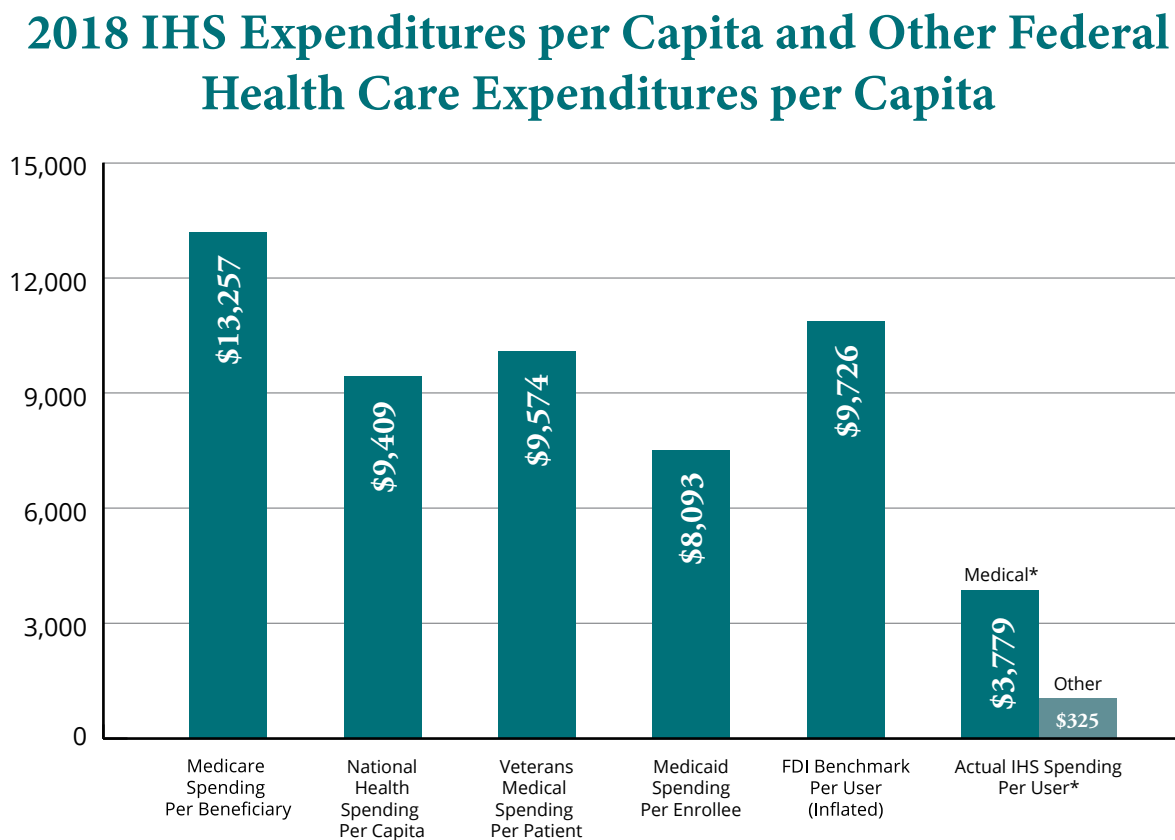
## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Interior, Environment, and Related Agencies Appropriations Bill Indian Health Service (IHS)

- Provide a total of \$12.75 billion for the IHS in FY 2022
  - Provide \$8.739 billion for Clinical Services
  - Provide \$563.5 million for Preventative Health
  - Provide \$371.1 million for Other Services
  - Provide \$2.017 billion for Facilities
  - Provide \$1.067 billion for Contract Support Costs

The FY 2022 tribal budget request addresses funding disparities between IHS and other federal health programs (Figure 2), while still providing for current service costs.

**Figure 3.2: 2018 IHS Expenditures Per Capita and Other Federal Healthcare Expenditures Per Capita**



Payments by other sources for medical services to AIANs outside IHS is unknown. 4/6/20

## CURRENT SERVICES

Maintaining current funding levels so that existing services can be provided is a fundamental budget requirement and a top priority for tribal leaders. These base costs, which are necessary to maintain the status quo, must be accurately estimated and fully funded before any real program expansion can begin. Any funding decreases would result in a significant reduction in healthcare services and prolong the state of emergency facing IHS. NCAI supports the requests of the National Tribal Budget Formulation Workgroup, as provided in Table 1.1.

*Table 1.1 – FY 2022 Summary of the National Tribal Budget Formulation Recommendation*

| FY 2022 National Tribal Budget Formulation Recommendations |                         |
|--|-------------------------|
| <b>SERVICES</b>  |                         |
| Hospitals and Health Clinics                               | \$4,201,596,000         |
| Electronic Health Record System                            | \$95,265,000            |
| Dental Services  | \$649,695,000           |
| Mental Health  | \$714,969,000           |
| Alcohol & Substance Abuse                                  | \$778,529,000           |
| Purchased/Referred Care                                    | \$2,022,682,000         |
| Indian Health Care Improvement Fund                        | \$276,784,000           |
| <b>TOTAL, CLINICAL SERVICES</b>                            | <b>\$8,739,520,000</b>  |
| Public Health Nursing                                      | \$204,357,000           |
| Health Education   | \$111,440,000           |
| Community Health Reps                                      | \$245,253,000           |
| Immunization AK  | \$2,457,000             |
| <b>TOTAL, PREVENTATIVE HEALTH</b>                          | <b>\$563,507,000</b>    |
| Urban Health   | \$200,548,000           |
| Indian Health Professions                                  | \$82,634,000            |
| Tribal Management  | \$2,694,000             |
| Direct Operations  | \$78,884,000            |
| Self-Governance  | \$6,356,000             |
| <b>TOTAL, OTHER SERVICES</b>                               | <b>\$371,116,000</b>    |
| <b>TOTAL, SERVICES</b>                                     | <b>\$9,674,142,000</b>  |
| <b>FACILITIES</b>  |                         |
| Maintenance & Improvement                                  | \$478,974,000           |
| Sanitation Facilities Construction                         | \$413,712,000           |
| Healthcare Facilities Construction                         | \$729,497,000           |
| Facilities & Environmental Health Supplement               | \$295,956,000           |
| Equipment  | \$99,140,000            |
| <b>TOTAL, FACILITIES</b>                                   | <b>\$2,017,279,000</b>  |
| <b>TOTAL SERVICES &amp; FACILITIES</b>                     | <b>\$11,691,421,000</b> |
| Contract Support Costs                                     | \$1,067,583,000         |
| <b>TOTAL, CONTRACT SUPPORT COSTS</b>                       | <b>\$1,067,583,000</b>  |
| <b>TOTAL, IHS</b>  | <b>\$12,759,005,000</b> |

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## DEPARTMENT OF HEALTH AND HUMAN SERVICE

### Tribal Access to Health Programs

Much of the funding that supplements IHS resources for tribal health programs, including funding that supports public health programs in Indian Country, comes from agencies within HHS *outside* of IHS.<sup>122</sup> The federal government's trust and treaty responsibilities extends to the whole federal government, not just IHS or the BIA. IHS services are largely limited to direct patient care, leaving little if any funding available for public health initiatives such as disease prevention, education, research for disease, injury prevention, and promotion of healthy lifestyles. This means that Indian Country continues to lag far behind other communities in basic resources and services. Our communities are therefore more vulnerable to increased health risks and illnesses.

To that end, tribal nations support increased funding specifically dedicated to tribal nations at other HHS agencies. Tribal nations are eligible to apply for many federal grants that address public health issues; however, many of these programs have little penetration into Indian Country because tribal communities have difficulty meeting the service population requirements, match requirements, or lack adequate capacity or resources to even apply for the grants. Denying tribal nations this stable source of funding denies them a significant opportunity to create the infrastructure required to address their own public health priorities.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Diabetes Prevention

- *Provide \$1.5 million for the On the TRAIL (Together Raising Awareness for Indian Life) to Diabetes Prevention Program*

IHS has successfully funded the “On the TRAIL” program since 2003, serving nearly 12,000 Native American youth ages 7-11 in more than 80 tribal communities. The program curriculum is an innovative combination of physical, educational, and nutritional activities that promote healthy lifestyles. The program also emphasizes the importance of teamwork and community service. Members apply decision-making and goal-setting skills when completing physical activities and engage in service projects to improve healthy lifestyles in their communities. Continued funding will sustain this highly effective program, which is one of the few proven national youth-oriented diabetes prevention initiatives.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Health Resources and Services Administration

#### Native Hawaiian Health Care Systems Program

- *Provide at least \$30 million to fund the Native Hawaiian Health Care Systems Program*

The Native Hawaiian Health Care Systems Program provides critically needed support for the health and wellbeing of Native Hawaiians. Since the Native Hawaiian Health Care Systems Program was first established in 1988, it has provided direct health services, screenings, and health education to hundreds of thousands of Native Hawaiians, and supported hundreds of Native Hawaiians in becoming medical professionals, including physicians, nurses, and health research professionals.<sup>123</sup> Allocating this funding would ensure the continuation of an already established and necessary resource for Native Hawaiians.





## HUMAN SERVICES

### Child Welfare

Congress has unequivocally recognized that there is nothing “more vital to the continued existence and integrity of Indian tribes than their children.”<sup>124</sup> Therefore, Congress must promulgate a budget that empowers tribal nations to provide programs and services necessary to safeguard their children and strengthen their families. A report from the Attorney General’s Advisory Committee on American Indian and Alaska Native Children Exposed to Violence emphasized this very point:

*“Congress and the executive branch shall direct sufficient funds to AI/AN tribes to bring funding for tribal criminal and civil justice systems and tribal protection systems into parity with the rest of the United States and shall remove barriers that currently impede the ability of AI/AN nations to effectively address violence in their communities. The Advisory Committee believes that treaties, existing law, and trust responsibilities are not discretionary and demand this action.”<sup>125</sup>*

The above recommendation underscores the inequity in federal child welfare funding that tribal nations face as compared to state governments. Tribal nations receive approximately one-half of one percent of all federal child welfare funds despite the fact that Native children represent approximately two percent of the United States population under the age of 18 and four percent of the child welfare population.<sup>126</sup>

Across Indian Country, tribal nations implement innovative child welfare services such as family group decision-making processes, peacemaking courts, positive parenting classes, culture camps, and customary adoptions to protect and support children while keeping them connected to their families and communities. In providing these services, many tribal nations work simultaneously in numerous jurisdictions across the country, to improve coordination with state and private child welfare agencies and court systems.<sup>127</sup> Tribal nations’ enduring service to children, families, and communities persists in the face of elevated risk factors for child abuse and neglect.<sup>128</sup>

Congress must prioritize the safety and wellbeing of all children. According to the Advisory Committee, “AI/AN children are generally served best when tribes have the opportunity to take ownership of the programs and resources they provide.”<sup>129</sup> The recommendations below recommend funding increases that will provide tribal nations with sufficient child welfare funding and provide necessary support of tribal efforts to support and heal children and families.

### *Key Recommendations*

## **DEPARTMENT OF THE INTERIOR**

### **Interior, Environment, and Related Agencies Appropriations Bill**

#### **Bureau of Indian Affairs**

#### **Appropriate \$93 million for the three discretionary grant programs under the Indian Child Protection and Family Violence Prevention Act:**

- *\$60 million for the Indian Child Protection and Family Violence Prevention Grant Program*
- *\$30 million for the Indian Child Abuse Treatment Grant Program*
- *\$3 million for the Indian Child Resource and Family Service Center Program*

The Indian Child Protection and Family Violence Prevention Act (P.L. 101-630) (ICPFVPA) was enacted to fill funding gaps in tribal child welfare services – specifically child abuse prevention, child protection, and child abuse treatment – and to ensure better coordination between child welfare and domestic violence programs. The ICPFVPA authorizes funding for two tribal programs: (1) the Indian Child Protection and Family Violence Prevention Program, which funds prevention programming, investigations, and emergency shelter services for victims of family violence; and (2) the Treatment of Victims of Child Abuse and Neglect program, which funds treatment programs for victims of child abuse. The ICPFVPA also authorizes funding to create Indian Child Resource and Family Service Centers in each of the BIA regional areas.

There is an incredible need for family violence prevention and treatment resources in American Indian and Alaska Native (AI/AN) communities. As recently recognized by Congress in the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4), AI/AN women are more likely than any other population to experience intimate partner violence. A DOJ study found that more than four in five AI/AN adults have experienced some form of violence in their lifetime.<sup>130</sup> Among AI/AN women, 55.5 percent have experienced physical violence by intimate partners in their lifetime, and 56.1 percent have experienced sexual violence.<sup>131</sup> Further, AI/AN children experience child abuse and neglect at an elevated rate. They are victims of child maltreatment at a rate of 12.4 per 1,000, compared to the national rate of 9.2 children per 1,000.<sup>132</sup> These problems are intricately intertwined. Studies show that in 49 to 70 percent of cases, men who abuse their partners also abuse their children,<sup>133</sup> while child abuse investigations reveal violence against the mother in 28 to 59 percent of all cases.<sup>134</sup>

Child abuse prevention funding is vital to the wellbeing and financial stability of AI/AN communities. Beyond the emotional trauma that maltreatment inflicts, victims of child maltreatment are more likely to require special education services, enter the juvenile and criminal justice systems, have long-term mental health needs, and have lower earning potential than their peers.<sup>135</sup> Financially, child maltreatment costs tribal communities and the United States \$210,012 per victim.<sup>136</sup>

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Tribal nations, like states, need adequate resources to effectively prevent and respond to child abuse and neglect in their communities. However, unlike states, tribal nations do not have meaningful access to HHS Child Abuse Prevention and Treatment Act Program (CAPTA) grant programs. The programs authorized under ICPFVPA were created to fill this gap, but without appropriations for them, tribal nations are left without funding for child protection and child abuse prevention services.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs

- *Provide \$100 million for Welfare Assistance (TPA)*

The Welfare Assistance program provides five important forms of funding to AI/AN families: (1) general assistance, (2) child assistance, (3) non-medical institution or custodial care of adults, (4) burial assistance, and (5) emergency assistance. We strongly urge Congress to increase the funds for this program, as the needs are much greater than previously appropriated amounts.

For example, in FY 2016, based on BIA Financial Assistance and Social Service Reports (FASSR), actual Welfare Assistance expenses were \$93 million, leaving tribal nations with an out-of-pocket shortfall of \$18 million. We know that this shortfall has grown since, especially recently due to the COVID-19 pandemic. This leaves families in poverty and caregivers to take children who have been abused or neglected into their homes without sufficient financial support. Funds should be increased to \$100 million to provide tribal nations the resources they need to support families and children in crisis.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill BIA Human Services Tribal Design - Tiwahe Initiative

- *Provide \$500 thousand for Human Services Tribal Design (TPA), make the Tiwahe Initiative permanent, and expand the program to fund additional tribal nations*

BIA's Tiwahe Initiative was established in 2015 to improve the health and wellbeing of families in tribal communities, and to reduce poverty, substance abuse, domestic violence, and associated outcomes such as youth suicide. The Tiwahe Initiative includes two components: a recurring funding increase for all tribal nations that operate Social Services and ICWA programs, and additional Tiwahe funding support for demonstration/pilot programs at six tribal locations (representing 61 tribal nations and Alaska Native villages) to develop improved coordination and delivery of services (which could offer a model for other tribal nations). Tiwahe funding supports BIA programs including Social Services, ICWA, Courts, Housing Improvement Program (HIP), Job Placement & Training, and the Public Safety Recidivism Reduction Initiative.

Tiwahe was intended as a five-year demonstration program, and upon completion of the five-year program period, if tribal nations evidenced success through performance measures identified in their Tiwahe plans, the program and funding would continue. The Tiwahe Initiative has provided critical investments to strengthen families and communities and has proven successful.

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Congress has supported the Tiwahe Initiative since it began, citing the importance of providing culturally appropriate services with the goals of empowering individuals and families through health promotion, family stability, and strengthening tribal communities as a whole. FY 2019 was the fifth year of the Tiwahe Initiative, and participating tribal nations report that the program has helped them conduct more effective analysis of community needs and program redesign to support families and family self-sufficiency.<sup>137</sup> It is in the interest of all tribal nations that operate Social Services and ICWA programs, the tribal demonstration sites, and all of the children and families benefitting from the initiative that Congress provide \$500,000 for Tiwahe Initiative pilot projects. NCAI further requests that Congress expand the program with more resources for all tribal nations and make the Tiwahe program permanent.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs

- *Provide \$30 million for the Indian Child Welfare Act (TPA) Program*

As the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence stated, "If AI/AN children today are to be provided with a reliable safety net, the letter and spirit of [the Indian Child Welfare Act] must be enforced."<sup>138</sup> ICWA was a response to national findings that public and private child welfare agencies were systematically removing AI/AN children from their homes, communities, and cultures to place them in non-Native foster and adoptive homes. To prevent these troubling practices, which regrettably still occur today, ICWA provides protections to tribal nations and AI/AN families in state child welfare and judicial systems. It also recognizes the sovereign authority of tribal nations to provide child welfare services and adjudicate child welfare matters. To implement these provisions, ICWA authorized grant programs to fund child welfare services on or near reservations and for ICWA support in off-reservation, urban Indian programs.

ICWA funding is the foundation of most tribal child welfare programs. In order for AI/AN children and families to receive the best possible services in tribal and state systems and allow tribal nations to assist state agencies and courts, adequate funding must be provided to tribal governments to support their child welfare programs. At the time that ICWA was passed in 1978, Congress estimated that between \$26 million and \$62 million would be required to fully fund tribal child welfare programs on or near reservations.<sup>139</sup> Adjusted for inflation, this would be \$193 to \$459 million in today's dollars.<sup>140</sup> NCAI urges Congress to increase the Indian Child Welfare Act (TPA) program to \$30 million.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs

- *Provide \$70 million for Social Services (TPA)*

The Social Services (TPA) Program provides a wide array of family support services filling many funding gaps for tribal programs and ensuring federal staff and support for these programs. Importantly, the Social Services Program provides the only BIA and tribal-specific funding available for child protective services for both children and adults in Indian Country. It ensures that Native people living on or near reservations have the support necessary to access and navigate the maze of

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services provided by states and the federal government. Where individuals are ineligible for certain assistance programs, Social Services (TPA) provides flexibility for tribal governments to design programs that meet sometimes unique community needs. This program also supports the management of Indian Individual Monies accounts for individuals who lack the legal authority to do so (including minors, adults with disabilities, and adults found to be non compos mentis). A recent assessment of BIA social services found that, in large part due to inadequate funding, “BIA and tribal social services staff prepare, authorize, and document various social services activities as part of their daily activities. Some tribes reported frequent vacancies and staff turnover in social services programs and mentioned a need for BIA to provide basic guidance and supporting materials to ensure continuity of services throughout tribal communities.”<sup>141</sup>

Technical support is one area where roles and responsibilities remain unclear, as demonstrated by BIA’s social services contracts with tribal nations. The contracts, or annual funding agreements, state that the BIA will provide technical support with social services issues as needed. Contrary to these agreements, tribal nations report insufficient or nonexistent technical support. In some cases, tribal nations could wait up to three weeks before receiving a response, or they might receive no response at all.<sup>142</sup>

Recent increases as part of the successful Tiwahe Initiative (which decreased crime in implementing tribal communities by 56 percent over three years<sup>143</sup>) are to be commended and this momentum must be sustained. This increase will ensure that basic child protective services are provided in tribal communities across the country, that tribal nations have access to meaningful training and technical assistance, and that the BIA has the resources necessary to fill service gaps, especially in light of the COVID-19 pandemic.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Promoting Safe and Stable Families (Social Security Act Title IV-B, Subpart 2) (Discretionary Portion)

- *Provide \$120 million for the Promoting Safe and Stable Families Program for expansion of tribal nation eligibility (\$3.6 million tribal set-aside)*

The Promoting Safe and Stable Families Program provides funds to tribal nations for coordinated child welfare services that include family preservation, family support, family reunification, and adoption support services. This program has a mandatory capped entitlement appropriation as well as a discretionary appropriation. There is a three percent set-aside for tribal nations under each program.<sup>144</sup> All tribal nations with approved plans are eligible for a portion of the set-aside that is equal to the proportion of their member children compared to the total number of member children for all tribal nations with approved plans. However, tribal nations who would qualify for less than \$10,000 are not eligible to receive any funding.<sup>145</sup> This means that many tribal nations, typically those who are most in need, cannot access it because the overall appropriation is currently too low. Increasing this program to \$120 million (still \$80 million below the authorized appropriation) could help dozens of new tribal nations access this funding and augment the programming of the 130 tribal nations and consortia currently funded.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Promoting Safe and Stable Families (Social Security Act Title IV-B, Subpart 2) (Discretionary Portion)

- *Provide \$5 million for the Tribal Court Improvement Program*

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Tribal nations are also eligible to apply for the Tribal Court Improvement Program, a competitive grant program authorized under Promoting Safe and Stable Families. This program is authorized for \$30 million of mandatory funding plus 3.3 percent of all discretionary funds. A \$1 million tribal set-aside was created in the 2011 Child and Family Services Improvement and Innovation Act (P.L. 112-34). Five tribal court improvement project grantees are currently funded under this program. They are using these funds to strengthen their family courts and better integrate the work of their court with the work of their child welfare system in addition to collaborating with state court improvement programs on state jurisdiction cases involving Native children and families. A change in the authorizing statute allowing an increased appropriation would help this program reach many more of the tribal court systems that have daily responsibilities for overseeing tribal child welfare services in tribal communities.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill Child and Family Services

- *Provide \$40 million to the Innovative Evidence-Based Community Prevention Program*

Child Abuse Discretionary Activities, including the Innovative Evidence-Based Community Prevention Program, support a variety of activities including research and demonstration projects on the causes, prevention, identification, assessment, and treatment of child abuse and neglect, and the development and implementation of evidence-based training programs. Tribal nations have access to this program through a competitive grant process that includes states and other entities. However, the majority of entities that have historically received funding are universities and research hospitals.

An accurate understanding of successful child abuse and neglect interventions for AI/AN families allows child abuse prevention programs to target the correct issues, provide the most effective services, and allocate resources wisely. Although promising practices for child protection, child abuse prevention, and trauma-informed child welfare services exist throughout Indian Country, not enough information is available on the implementation and effectiveness of these programs to make them easily replicable.<sup>146</sup>

The Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence recently provided the following recommendation: "The Administration of Children and Families of the DHHS, BIA in the DOI, and tribal nations should collectively identify child welfare best practices and produce an annual report on child welfare best practices in AI/AN communities that is easily accessible in tribal communities."<sup>147</sup> The Child Abuse Discretionary Activities Program is the only funding available to help tribal nations engage in the research necessary to test treatment and interventions. The surest way to effectuate this recommendation is to provide funding under the Child Abuse Discretionary Activities Program that supports tribal access to these funds.

The CAPTA Reauthorization Act of 2010 (P.L. 111-320) provided tribal access to this program, but appropriation levels did not increase to account for the expanded pool of grant applicants. For this reason, the Child Abuse Discretionary Activities, including Innovative Evidence-Based Community Prevention Programs appropriation should be increased to \$40 million (a level still well below the \$120 million authorization) to provide the funding necessary to ensure tribal success in this competitive grant process.



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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Child and Family Services

- *Provide \$100 million for the Community-Based Child Abuse Prevention Program*

The Community Based Child Abuse Prevention program funds community-based, prevention-focused services that curb child maltreatment by strengthening families. Tribal nations have access to this program, but they share a one percent set-aside of the total funding with migrant populations through a competitive grants program.<sup>148</sup> The current funding level only funds two tribal grantees during each three-year grant cycle.<sup>149</sup>

Tribal child welfare programs are uniquely situated to provide effective community-based child abuse prevention programs. According to the National Child Welfare Resource Center for Tribes, “The close-knit structure of many tribal communities [makes] it possible for workers to informally track families that might be experiencing stressors or risk factors that could lead children to becoming unsafe. Tribal workers’ embedded place in the community and their status as fellow community members also [permits] them to check in on these families regularly and provide informal support without stigmatizing them as having problems or being involved with social services.”<sup>150</sup>

The Community Based Child Abuse Prevention Program is the only appropriated funding that specifically targets the design and implementation of prevention programs in tribal communities. It empowers tribal nations to create programs that will be truly effective at preventing child maltreatment – programs which are community-based and tailored to the needs of the local community.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Child Welfare Programs

#### Child Welfare Services (Social Security Act Title IV-B, Subpart 1)

- *Provide \$350 million for the Child Welfare Services Program*

The Child Welfare Services Program provides funds that support child welfare program flexibility in the provision of community-based child welfare services. Tribal nations are eligible for this funding based on a formula grant.<sup>151</sup> Tribal nations receive an allocation based upon a population-based formula.<sup>152</sup> This tribal allocation is deducted from the state’s allocation.<sup>153</sup>

The vast majority of tribal child welfare programs operate from a cultural worldview – meaning the ways that culture affects tribal child welfare practice go far beyond incorporating traditional practices into case plans or using cultural services. Culture is infused throughout tribal child welfare programs: it guides the focus, promotes the most effective responses, and improves community support for and participation in these programs.

Studies show that culturally tailored programs, resources, and case management result in better outcomes for AI/AN children and families involved in the child welfare system.<sup>154</sup> The flexibility of the Child Welfare Service Program allows tribal nations to provide cultural services to families along a continuum, from child protection to out-of-home placement. Tribal nations use this important funding to tailor their child welfare services to best fit their communities’ needs.

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Of the 574 federally recognized tribal nations, less than 400 have been able to access this funding.<sup>155</sup> The median tribal grant is about \$13,300, an insufficient amount to support the administrative requirements, much less provide the services this program is meant to support. The low level of funding has been one of the primary reasons more eligible tribal nations are not participating.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Health Resources and Service Administration, Maternal and Child Health

- *Provide \$420 million for the Maternal, Infant and Early Childhood Home Visiting Program (three percent tribal set-aside: \$12.6 million for tribal nations)*

The ACA set-aside funds to support five-year grants for the Maternal, Infant, and Early Childhood Home Visiting Program. This innovative program included tribal nations at its inception with a three percent tribal set-aside, and currently funds 23 tribal grantees. Tribal grants under this line item fund programs that provide voluntary home-visiting services during pregnancy and to families with young children up to five years old. In-home services and visits funded by this program use models that have been found to be “promising practices” when working with AI/AN families. Tribal programs can now choose from a tribally developed and evidenced-based model (Family Spirits) or culturally adapt an existing mainstream evidenced-based home visiting model. By using models that have been shown to improve maternal and child health, prevent child maltreatment, encourage positive parenting, and promote child development, this program does much to strengthen families and prevent involvement with the child welfare system. These programs are invaluable to the tribal communities who are funded – communities that often face increased risk factors for child maltreatment.<sup>156</sup>

## CHILDREN’S MENTAL HEALTH

AI/AN children and communities grapple with complex behavioral health issues at high rates due to high rates of trauma and exposure to violence.<sup>157</sup> Tribal nations have often struggled to address challenges to their citizens like mental health, especially when only provided limited flexibility to shape programs in a manner that reflects community values and can utilize proven methods for addressing complex issues. Unaddressed trauma that has occurred within families is an example of the type of challenges that tribal nations face that require resources tailored to the specific community factors that will support healing from complex trauma and reduce the risk for further involvement in other human services systems.<sup>158</sup> Where tribal reclamation of these systems has been possible, it has led to the design and implementation of effective service systems by and for AI/AN people to promote cultural strength and healing. These tribal systems have already begun to resolve the trauma in their communities.

The most reliable way to transform these broken systems is to support tribal children’s mental and behavioral health programs with funding that reflects the need. Funding also must account for the understanding that effective mental and behavioral healthcare requires an entire tribal system dedicated to treatment. In order to effectively serve AI/AN children and communities, funding must provide flexible opportunities that allow tribal nations to integrate mental and behavioral health interventions throughout government services.

It is with this understanding that NCAI strongly recommends the following appropriations. The numbers provided below will help tribal nations access the funding necessary to improve their mental health services.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Substance Abuse and Mental Health Services Administration

#### Programs of Regional and National Significance

#### Children and Family Programs (includes Circles of Care)

- *Provide \$8 million for Children and Family Programs and ensure that \$6.5 million is reserved for the tribal Circles of Care program*

The Children and Family Programs line item in the Substance Abuse and Mental Health Services Administration (SAMHSA) budget represents funds allocated to support the Circles of Care program. Circles of Care is a competitive grant program exclusively for tribal communities. It is the cornerstone of mental health programming for Native youth. The goal of this program is to help children access services and find wellness. Specifically, Circles of Care funds the development of the tribal capacity and infrastructure necessary to support a coordinated network of holistic, community-based, mental and behavioral health interventions in tribal communities. Since its creation in 1998, the Circles of Care program has helped more than 50 different tribal and urban Native communities. These programs have been incredibly successful. The majority of tribal nations who have received these grants have created long-term, sustainable systems of care for their children.

In 2017, SAMHSA awarded 13 new tribal Circles of Care grant programs, which continued through 2019. More than half of the 31 graduated Circles of Care grantees have obtained direct funding to implement their system change efforts through the Child Mental Health Initiative (CMHI) Program (which funds system of care grants), and others have partnered with other CMHI-system of care grantees to implement their models. The others have developed various alternative strategies to operationalize and sustain their system change plans to care for youth with mental health challenges.<sup>159</sup> Unfortunately, in 2018, SAMHSA discontinued funding of tribal specific technical assistance services for the Circle of Care grantees through the long-funded, tribal-specific technical assistance center. This has left Circles of Care grantees with little opportunity to find and secure tribal specific technical assistance, which is critical to their success in establishing quality plans for children's mental health services.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Substance Abuse and Mental Health Services Administration

#### Garrett Lee Smith (GLS) Youth Suicide Prevention and Early Intervention and Campus Suicide Prevention Programs

- *Provide \$50 million for the Youth Suicide Prevention and Early Intervention and Campus Suicide Prevention grant program*
- *Provide \$9 million for the Campus Suicide Prevention grant program*

The GLS State/Tribal Youth Suicide Prevention and Early Intervention Program provides four-, three-, and one-year grants to states, tribal nations, and tribal organizations to support the development and implementation of youth suicide prevention and early intervention strategies. The GLS Campus Youth Suicide Prevention Program provides funding to institutions of higher learning, including tribal colleges and universities via multi-year and annual grants to support efforts to prevent suicide and suicide attempts by students.

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Youth suicide is a significant – but preventable – problem in AI/AN communities. The suicide rate for AI/AN youth is 2.5 times higher than the national average.<sup>160</sup> In response to this problem, AI/AN communities across the country have successfully implemented proactive and holistic programming, which aims to simultaneously reduce those factors known to contribute to suicide and strengthen those factors known to protect against suicide. The GLS State/Tribal Youth Suicide Prevention and Early Intervention Program and the GLS Campus Youth Suicide Prevention Program currently support this important work in 41 tribal communities and at one tribal college.

Funding for the GLS State/Tribal Youth Suicide Prevention and Early Intervention Program must be increased to \$50 million. These grants provide targeted funding for a problem of epidemic proportions in tribal communities. They have been a lifeline for tribal communities. This increase will ensure that current grantees can complete the programs they have begun and give more tribal communities the opportunity to access these funds. For similar reasons, funding for the GLS Campus Youth Suicide Prevention Program should be funded at \$9 million.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill Substance Abuse and Mental Health Services Administration**

- *Provide \$20 million for the American Indian and Alaska Native Suicide Prevention Program*

The American Indian and Alaska Native Suicide Prevention program supports training and technical assistance to help tribal communities mobilize existing resources to target issues that affect mental wellbeing in youth. This program has provided training and technical assistance to more than 381 tribal communities.<sup>161</sup> It has helped these tribal communities leverage existing social and educational resources to implement comprehensive, community-based prevention plans that target bullying, violence, and suicide. It has trained more than 9,000 community members in prevention and mental health promotion. Within the ravages of the COVID-19 pandemic, suicide risk has increased in many tribal communities and will likely continue without an increase in urgently needed services. Congress must appropriate \$20 million to allow for more of these important activities to continue.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill Substance Abuse Mental Health Services Administration Programs of Regional and National Significance**

- *Provide \$50 million for Tribal Behavioral Health Grants*

In FY 2021, SAMHSA funded Tribal Behavioral Health Grants at \$41.5 million (\$20.75 million in the Mental Health appropriation and \$20.75 million in the Substance Abuse Prevention appropriation). NCAI recommends a combined \$50 million, \$25 million for each program, in FY 2022 to continue to address the expansion of suicide prevention, mental health, and substance abuse initiatives in and for Native communities.

These are competitive grants designed to target tribal communities, which have the highest rates of suicide in the United States.<sup>162</sup> These funds must be used for effective and promising strategies to address the problems of substance abuse and suicide and promote mental health among AI/AN young people.

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AI/AN young people are more likely than other youth to have an alcohol use disorder. In 2007, 8.5 percent of all AI/AN youth struggled with alcohol use disorders, compared to 5.8 percent of the general youth population.<sup>163</sup> Although these statistics are troubling, with adequate resources tribal nations are best able to serve these young people and help them heal before they reach adulthood.

There is growing evidence that Native youth who are culturally and spiritually engaged are more resilient than their peers. Research has revealed that 34 percent of Native adolescents preferred to seek mental or substance abuse services from a cultural or religious-oriented service provider.<sup>164</sup> In other research, Native caregivers preferred cultural treatments (e.g., sweat lodge, prayer) for their children and found the traditional-based ceremonies more effective than standard or typical behavioral health treatment.<sup>165</sup>

This funding provides flexible opportunities allowing tribal nations to tailor their mental and behavior health interventions to the unique needs of AI/AN children families and communities. This program is currently the only source of federal substance abuse prevention funding exclusively available to tribal nations. Congress must appropriate \$50 million for Tribal Behavioral Health Grants, split evenly between the two existing Tribal Behavioral Health Grants.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill**

#### **Substance Abuse Mental Health Services Administration**

#### **Children's Mental Health Initiative (Systems of Care)**

- *Provide \$135 million for Children's Mental Health Initiative Systems of Care Grants and allow for new grantees in FY 2022*

The children's mental health initiative line item supports the development of comprehensive, community-based "systems of care" for children and youth with serious emotional disorders. This includes funding for Children's Mental Health Initiative System of Care Grants. AI/AN communities are eligible for and recipients of each of these grants, but must compete with non-tribal applicants to receive these funds.

Children's Mental Health Initiative System of Care Grants support communities' efforts to plan and implement strategic approaches to mental health services. These approaches are based on important principles: they must be family driven; youth-guided; strength-based; culturally and linguistically responsive; and meet the intellectual, emotional, cultural, and social needs of children and youth. Since 1993, approximately 200 total projects have been funded, dozens of which have been in tribal communities. Currently, nine tribal communities are funded by the Children's Mental Health Initiative line item.

The system of care model of mental health service provision has been found to be more in line with the AI/AN worldview and traditional tribal ways of helping than any other service system.<sup>166</sup> Evaluation studies of System of Care grantee initiatives have indicated a return on investment from cost-savings in reduced use of in-patient psychiatric care, emergency room care, and residential treatment even when other community or home-based care is provided. There are also cost savings from decreased involvement in juvenile justice systems, fewer school failures, and improved family stability.<sup>167</sup>

Due to this program's efficacy in tribal communities, it is of the utmost importance that funding for current grantee cohorts be extended so that they may continue the important work they have begun. In addition, the wellbeing of AI/AN children is dependent on the ability of more tribal nations to access these funds and create real systems change. For these reasons, funding should be increased to \$135 million for FY 2022.

## Elders

Elders are held in the highest regard in all tribal communities. However, American Indian and Alaska Native (AI/AN) elders are the most economically disadvantaged elderly minority in the nation and are at risk for exploitation, food insecurity, limited economic opportunities, neglect, and other factors that harm their health and wellbeing.<sup>168</sup>

The Older Americans Act (P.L. 89-73) (OAA) is the major federal statute that authorizes social and nutritional services to AI/AN elders. These services are essential to providing tribal nations with the resources necessary to address the needs of their elders. These supportive services include congregate and home-delivered nutrition services; community centers; community service employment; long-term care ombudsman programs; information and referral services; and services to prevent the abuse, neglect, and exploitation of elders. The OAA specifically states "it is the purpose of this Title to promote the delivery of supportive services, including nutrition services, to American Indians, Alaskan Natives [sic], and Native Hawaiians that are comparable to services provided under Title III" (grants for state and community programs on aging).<sup>169</sup> Due to inadequate funding to carry out the purpose of Title III, "comparable services" for Native elders have not been established. Tribal nations have little or no access to the agencies, departments, ombudsman, and programs that are available to states. In addition, state programs seldom serve Native elders due to cultural and geographic barriers. Addressing these disparities and protecting and enhancing funding levels for these critical programs is necessary in order to ensure AI/AN elders receive consistent and effective care and support.

### *Key Recommendations*

#### **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

##### **Labor, HHS, Education, and Related Agencies Appropriations Bill Older Americans Act – Title VI, Native American Programs**

- *Provide \$55.5 million for Title VI, Native American Programs*
  - *Provide \$43 million Part A & B, Native American Nutrition and Supportive Services*
  - *Provide \$12.5 million for Part C, the Native American Caregiver Support Program*

Programs under Title VI of the OAA are the primary vehicle for providing nutrition and other direct supportive services to American Indian, Alaska Native, and Native Hawaiian elders. In FY 2018, 270 tribal nations and tribal consortia were served under the OAA Part A and Part B grants. Nearly half of the Part A and Part B grants given to tribal nations are less than \$100,000 each.<sup>170</sup> This funding level does not provide tribal nations with enough funding to provide adequate services to



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their tribal elders. As a result, many tribal elder programs are unable to meet the five-days-a-week meal requirement because of insufficient funding and are serving congregate meals only two or three days per week. In addition to being unable to provide elder meals throughout the week, some Title VI programs are unable to provide basic services such as transportation, information and referral services, respite or adult day care, home visits, homemaker services, or home health aide services. Additionally, the Native American Caregiver Support Program under Title VI, Part C of the OAA assists American Indian, Alaska Native, and Native Hawaiian families caring for older relatives with chronic illnesses. The grant program offers many services that meet caregivers' needs, including information and outreach, access assistance, individual counseling, support groups and training, respite care, and other supplemental services. Each year, this service reaches more than 240 tribal nations and tribal consortia. Through the Native American Caregiver Support Program, many AI/AN elders and families are able to access the services they need to ensure their caregivers receive the support and services necessary as they provide care for their loved ones. With more than 230,000 American Indian and Alaska Native elders participating, this program cannot be effective if it is not adequately funded. Funding must be increased for OAA Native American programs to ensure Native elder caregivers are receiving and accessing support services that ensure the needs of those they care for are effectively and adequately addressed.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill**

#### **Older Americans Act – Title VII, Subtitle B**

##### **Elder Rights Activities and the Elder Justice Initiative**

- *Provide a five percent tribal set-aside for the Protection of Vulnerable Older Americans*

The current public safety concerns involving elders on tribal lands are a result of decades of severe underfunding for tribal criminal justice systems and an incredibly complex jurisdictional landscape. OAA Title VII – Subtitle B authorizes a program for tribal nations, public agencies, and non-profit organizations serving Native elders to assist in prioritizing issues concerning elder rights and to carry out related activities.<sup>171</sup> Congress must provide a five percent set-aside under Subtitle B to ensure that tribal nations have access to funds at a comparable level to states.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill**

#### **Older Americans Act – Title V**

##### **Senior Community Service Employment Program**

- *Provide \$434.4 million for the Senior Community Service Employment Program (SCSEP)*

Through the Senior Community Service Employment Program (SCSEP), low-income elders can take advantage of federal job training programs to help meet their needs. SCSEP promotes self-sufficiency and economic enhancement, and is a critical federal Older American workforce development program for low-income tribal elders 55 and older.<sup>172</sup> SCSEP provides elders with services and training that allow them to gain necessary skills to re-enter the workforce and transition to regular employment. Restoring SCSEP funding to its FY 2015 level of \$434.4 million is critical for older adults. Each year, SCSEP provides jobs for about 67,000 elders nationwide. Protecting and enhancing funding levels for this critical program is necessary in order to ensure tribal elders continue to receive the skills and resources necessary for self-sufficiency and economic achievement.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

- *Fully implement the Indian Health Care Improvement Act and promote long-term services and supports (LTSS) within Indian Country*

As the Native elder population continues to grow, it is important to prepare for the increased demand for LTSS. Generally, Native elders prefer to age within their homes and communities and pass along knowledge that is essential to sustaining tribal nations and cultures. Their caregiving usually falls to family members because AI/AN households tend to be multi-generational.<sup>173</sup> Caregiving is satisfying but can also be stressful emotionally and financially. Elders cannot continue to afford these services out of pocket. LTSS encompasses a full range of services from in-home community-based services to long-term care. To support and enhance LTSS, the following is needed:

- Develop comprehensive long-term care services by financing IHS Elder Care Initiatives to ensure that elders receive the care they need.
- Establish coordinated care for tribal aging services and supports to ensure that tribal elders will age in place in their own communities.
- Provide services and support for tribal adults with disabilities, who require a range of services such as transportation; home modification; and medical, in-home, and other crucial supportive services.
- Work with HHS to develop culturally appropriate healthcare services for tribal elders with dementia diseases such as Alzheimer's. These healthcare services should also provide caregiver support services.

## Disabilities

American Indians and Alaska Native (AI/AN) people have the highest rate of disabilities of any population in the country and face significant barriers to accessing culturally appropriate services and programming.<sup>174</sup> AI/ANs with disabilities deserve comprehensive care, including culturally sensitive programs and quality resources. State-led and non-tribal programs contain barriers for individuals with disabilities living on or near reservations and villages, including a lack of cultural awareness, research, accommodations, and opportunities. Services needed by individuals with disabilities range and can include transportation assistance, home modification, LTSS, and other crucial supportive services.

A critical program established for AI/ANs with disabilities is the American Indian Vocational Rehabilitation Services (AIVRS) through the U.S. Department of Education, Rehabilitation Services Administration (RSA). This program was established through the Rehabilitation Act of 1973, amended in 2015 (as amended P.L. 114-95), to establish and promote workforce programming for individuals with disabilities. Congress recognized in Title I that work “fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States.”<sup>175</sup> However, Section 121, which provides employment opportunities for AI/ANs, is critically underfunded, leaving many individuals with disabilities unable to access these services.

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## Key Recommendations

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Rehabilitation Act – Title I

#### American Indian Vocational Rehabilitation Services

- *Provide a \$76 million tribal set-aside within Vocational Rehabilitation (VR) Services for the American Indian Vocational Rehabilitation Services Program*

Consistent with Section 121(c) of the Rehabilitation Act, the Department of Education is required to reserve a percentage of funds for vocational rehabilitation state grants to support training and technical assistance to tribal governments under the American Indian Vocational Rehabilitation Services (AIVRS) program. Specifically, the Rehabilitation Services Administration is required to reserve not less than 1.8 percent and not more than 2 percent of the funds set-aside from the State VR program for the AIVRS program to provide training and technical assistance to tribal nations that have received AIVRS grants under Section 121(a) of the Act.<sup>176</sup> AIVRS awards grants to tribal nations to assist them in increasing their workforce capacity while providing culturally focused vocational rehabilitation services for AI/ANs with disabilities on or near a reservation. In FY 2019, there were 88 AIVRS programs across 26 states.<sup>177</sup> Every year, in a staggered system, tribal nations that are ending their five-year grants must reapply. However, funding has been inconsistent and the number of grants have fluctuated. AI/ANs with disabilities should not have to fear that after five years they will no longer be able to access services because of reduced funding or a grant's termination. It is critical that AIVRS is well funded to provide for individuals with disabilities that need vocational rehabilitation.



## ECONOMIC & WORKFORCE DEVELOPMENT

Increasing infrastructure development and economic and workforce development opportunities in Indian Country requires a comprehensive, multi-agency approach. Indian Country continues to face daunting challenges – notably high rates of unemployment and poverty – which primarily stem from longstanding shortfalls in federal funding obligations and unnecessary barriers to private and philanthropic investments on tribal lands. Increased federal funding, coupled with reduced regulatory burdens, will empower tribal nations’ efforts to develop robust, sustainable economies through greater access to capital resources and programs designed to train their workforces. These FY 2022 budget requests seek appropriations amounts that are essential to the federal government honoring its trust and treaty responsibilities to support tribal nations as they work to seed economic prosperity and increase job opportunities across their tribal communities and prepare their citizens to take advantage of those opportunities.

### *Key Recommendations*

#### **DEPARTMENT OF COMMERCE**

##### **Commerce, Justice, Science, and Related Agencies Appropriations Bill Minority Business Development Agency (MBDA)**

- *Provide \$52 million for the MBDA*
- *Continue the initiative to provide MBDA support for Native American Business Enterprise Centers*

Established by Executive Order in 1971, the MBDA was created to support minority business development centers that provide business consulting and financing services. Providing funding at a minimum of \$52 million will enable the MBDA to continue supporting its MBDA Business Centers and Specialty Centers, and to set-aside at least \$3 million within its budget to continue grant support for entities qualified to provide the business, financing, and procurement technical assistance services that Native businesses need to develop stronger private sector capabilities and contribute to the national economy. The MBDA

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also should continue to support federal contract awards to Native American contractors, track Native as well as other minority business data, and collaborate with the Office of Native American Business Development.

## DEPARTMENT OF COMMERCE

### Commerce, Justice, Science, and Related Agencies Appropriations Bill Office of Native American Business Development

- *Fund the Office of Native American Business Development at a minimum of \$5 million as part of the Commerce Department Management Budget*

Congress recently acted to fortify a free-standing Office of Native American Business Development (ONABD), originally codified by the Native American Business Development, Trade Promotion and Tourism Act of 2000 (P.L. 106-464). To date, the ONABD has had minimal access to resources from the MBDA to coordinate federal programs for financial and technical assistance to increase business, expand trade, and support economic development on tribal lands. However, the recently enacted Indian Community Economic Enhancement Act of 2020 (Public Law 116-261) authorizes an annual budget of \$2 million and requires the ONABD Director to report directly to the Secretary of Commerce and perform additional duties, including implementing fully Public Laws 106-464, 106-447, and 116-261. Funds for ONABD operations should be reallocated from the MBDA or Departmental Management budget.

To carry out its expanded mission, ONABD must at minimum receive its authorized budget of \$2 million for FY 2021 and receive an increase to \$5 million for FY 2022 so that it can fully implement and expand Native American policy and business development initiatives both domestically and internationally. Full support for ONABD at \$5 million would fulfill Congress' intent for this Office to direct Commerce's broad authorities to expand business development, trade promotion, and tourism within Indian Country, and externally facilitate the regulatory reforms determined necessary to enhance such economic development and commercial expansion. Supported ONABD functions would include: serving as the economic development lead on Native American programs within the Department; coordinating with other cabinet departments and agencies; conducting outreach to tribal nations, tribal enterprises, and Native businesses; and enhancing business and financial management training.

## SMALL BUSINESS ADMINISTRATION

### Financial Services Appropriations Bill Small Business Administration

- *Provide at least \$5 million for the Office of Native American Affairs*

The Small Business Administration's (SBA) Office of Native American Affairs (ONAA) provides vital assistance to tribal nations and Native-owned businesses in navigating the SBA's business assistance, procurement-related, and lending programs. Recent FY budgets have provided SBA line-item funding of \$2 million for "Native American Outreach" to facilitate ONAA's outreach to and coordination with tribal communities and businesses to connect them with business tools and other important resources for tribally-owned corporations and individual Native entrepreneurs.<sup>178</sup> Providing \$5 million for ONAA would enable it to continue and expand its efforts and maximize its outreach to Native people, advance successful initiatives like its tribal and business executive training, and ensure its participation in multi-agency workshops and Native supplier initiative

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events around the country. ONAA also can be instrumental in spurring business development with SBA loans, and initiating review of the extent to which SBA loan guarantees are used in financing business loans in Indian Country and ways to increase such usage. ONAA should be staffed by an executive level appointment to ensure it has a voice in all policy matters impacting Native Americans in the SBA.

Further, ONAA has been integral in facilitating Native American contractors' participation in SBA's 8(a) Business Development Program, HUBZone, women-owned business, veteran-owned and service-disabled veteran-owned business, and other small business contracting programs. ONAA is a critical resource for tribal nation-and individual Native-owned businesses, as it works to ensure these businesses gain access to capital, build capacity, generate increased revenues, create more jobs, develop tribal business codes, and strengthen the economic security of tribal communities.

## **DEPARTMENT OF DEFENSE**

### **Defense Appropriations Bill**

#### **Procurement Technical Assistance Centers**

- *Provide \$5 million for the American Indian Procurement Technical Assistance Program*

For decades, the Procurement Technical Assistance Cooperative Agreement Program (PTAP) has provided cooperative agreement assistance to Procurement Technical Assistance Centers (PTACs). Many of these centers are housed within educational institutions that help support their operations. Since the early 1990s, as many as six American Indian Procurement Technical Assistance Centers (AIPTACs) have offered their services in their respective regions, with each covering more than one Bureau of Indian Affairs (BIA) area.

All of the AIPTACs in operation are non-profit entities that must raise operational funds and the private match required for the cooperative assistance funding they receive from the PTAP. AIPTACs offer valuable assistance to tribal and other Native-owned companies in navigating the large, complex federal procurement market, securing government contracts, and complying with extensive government procurement and other regulatory requirements. The FY 2021 funding set-aside of \$4.5 million for AIPTACs is commensurate with the amount authorized per statewide PTAC and per AIPTAC (even though the service area of each AIPTAC is much larger than just one state). Congress has supported the continued growth of PTAP, funding the program at approximately \$44.6 million for FY 2021. PTAP funding for FY 2022 should increase or at least remain level and thus be capable of increasing the set-aside for AIPTACs to \$5 million.

## **DEPARTMENT OF DEFENSE**

### **Defense Appropriations Bill**

#### **Department of Defense**

- *Provide at least \$25 million for the Indian Incentive Payment (IIP) Program*

Under Section 504 of the Indian Finance Act (25 U.S.C. § 1544), a contractor may receive additional compensation of five percent of the amount paid or to be paid to a Native American subcontractor or supplier under a federal contract. Since FY 1991, Congress annually has appropriated funds for the DOD to make Indian Incentive Payments to contractors that subcontract work to Native-owned subcontracting companies under DOD contracts. From FY 2009 to FY 2018, Congress

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appropriated \$15 million annually for the IIP program, but demand has always exceeded the funding made available. To cover already approved but still unfunded IIP requests, Congress has approved \$25 million for the IIP since FY 2019. To ensure earlier release of the funding for approved requests, the FY 2021 bill language should be repeated for FY 2022, specifying that at least \$25 million “is appropriated for the incentive payments authorized by” 25 U.S.C. § 1544.

## DEPARTMENT OF THE TREASURY

### Financial Services Appropriations Bill

#### Community Development Financial Institutions Fund

- *Provide at least \$30 million for technical and financial assistance under the Native American CDFI Assistance (NACA) Program*
- *Implement the new permanent waiver of the non-federal match requirement for the NACA financial assistance program*

The Native Initiative of the Community Development Financial Institution (CDFI) Fund is an important program that expands access to capital for individuals and small businesses in Indian Country. Each year, the CDFI Fund channels funding to the NACA program, which includes financial and technical assistance components. The NACA program makes awards that assist Native community development financial institutions (Native CDFIs) in increasing their lending services and financial products, and in building their own internal capacity to serve their target markets. Native CDFIs provide a wide range of loans to microenterprises, small businesses, consumers, and for housing and homeownership. Native CDFIs also offer financial education and entrepreneurial development training, homebuyer education and foreclosure prevention counseling, credit counseling, small business planning, debt relief counseling, counseling to improve financial capability, match savings programs called Individual Development Accounts, and free tax preparation services in Native communities across the country. In many areas, Native CDFIs provide the only affordable alternative to predatory financial services providers.

For FY 2020, the NACA program received 30 applications for Financial Assistance and Technical Assistance funding totaling \$23.5 million, but the CDFI Fund was only able to award 40 organizations with funding totaling \$15.2 million.<sup>179</sup> With more than 70 federally certified Native CDFIs and many more in the certification pipeline, demand for support under the NACA program is expected to continue to increase. The CDFI Fund’s budget line item for NACA remained at \$12 million from FY 2009 to FY 2013, notwithstanding the industry’s growth from only nine certified Native CDFIs in 2001 to 70 in 2014. Given demand and demonstrated impact, Congress set-aside \$16.5 million in funding for FY 2021 and should increase the annual allocation to at least \$30 million for the NACA Program for FY 2022 to support current initiatives and emerging Native CDFIs and to continue specialized training and technical assistance as part of the CDFI Fund’s Capacity Building Initiative. In addition, the CDFI Fund must implement the permanent waiver of the non-federal match requirement for NACA financial assistance that was enacted as part of the Indian Community Economic Enhancement Act of 2020 (Public Law 116-261).

## DEPARTMENT OF THE TREASURY

### Financial Services Appropriations Bill

#### Community Development Financial Institutions Fund

#### New Markets Tax Credit (NMTC) Program

- *Provide a 10 percent tribal set-aside and revise “service area” to include Indian Country*



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In 2000, Congress established the NMTC Program to spur investment in projects located in low-income communities. According to the CDFI Fund, for every \$1 invested by the federal government, the NMTC Program generates over \$8 in private investment.<sup>180</sup> Unfortunately, NMTC Program funding “has rarely made its way into Indian Country.”<sup>181</sup> Between 2014 and 2017, as an example, only one Native Community Development Entity (CDE) received a funding allocation of \$20 million of the \$15 billion made available during that period. Considering the far greater value of tax credits that have been deployed throughout the country, and the program’s potential for significantly increasing economic growth in Indian Country, steps must be taken to ensure that tribal communities and tribally-focused CDEs receive a greater share of these valuable tax credits.

The CDFI Fund’s robust budget should include a 10 percent set-aside for Indian Country to ensure that Native CDEs (which can include Native CDFIs) receive NMTC allocations commensurate with the tremendous need for greater business and economic development in Native communities across the country (alternatively, Treasury could accord all tribal applicants an extra five “priority” points to make them more competitive in the application process, thereby increasing their chances of receiving NMTC investments). To enhance the likelihood that tax credits will be deployed in Indian Country, the service area of all participating CDEs should be revised to include Indian Country, so that CDEs are free to use allocations in any tribal project nationally, or the set-aside should be allocated to CDEs dedicated to serving Indian communities as their target populations.

## DEPARTMENT OF ENERGY

### Energy and Water Development Appropriations Bill

#### National Nuclear Security Administration

- *Provide \$5 million for the Minority Serving Institutions Partnership Program (MSIPP) Tribal Colleges and Universities Initiative.*

Report language is needed to accompany the FY 2022 Energy and Water Development, and Related Agencies, Appropriations bill designating \$5 million of the funds appropriated for the Department of Energy, National Nuclear Security Administration (NNSA) MSIPP, specifically for the Tribal Colleges and Universities Advanced Manufacturing Network Initiative. The Advanced Manufacturing Network Initiative is an innovative advanced manufacturing training and education program involving five TCUs that prepares an American Indian advanced manufacturing workforce through certificate and four-year degree programs. The goal of this initiative is to create reservation-based economic and employment opportunities through the design, manufacture, and marketing of high-quality products in partnership with tribal nations, major industry, and the National Laboratories. Full funding of the project will help establish a technically skilled workforce and manufacturing base in Indian Country prepared to support the engineering and technology needs of the nation.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill

#### Indian Affairs

- *Fund the Office of Indian Energy and Economic Development (OIEED) Indian Loan Guarantee Program at a minimum of \$25 million*

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OIEED's Division of Capital (DCI) oversees the Indian Loan Guarantee Program (ILGP) and loan subsidy program, and has authority to support surety bonding for tribal contractors. The OIEED Loan Guarantee Program facilitates eligible tribal and individual Native borrowers in obtaining conventional lender financing for businesses and economic development projects that will have an economic impact on a Native American community or BIA service area. DCI-certified lenders are those willing and able to lend to tribal nations and Native businesses on reservations and which submit to tribal court jurisdiction (whereas SBA-certified lenders must adjudicate loan defaults in federal court). DCI also operates a revolving credit facility (the SBA has no such support). Before the COVID-19 pandemic, lending conditions were improving, and demand had far outstripped what the program could guarantee, leaving Native borrowers to seek private loans. Given the urgent economic recovery needs in Indian Country, this successful program must be more robustly funded as the only federal program uniquely tailored to facilitating private financing on Indian lands (and providing an impressive return of \$17 in private sector lending for every \$1 in federal funds backing the guarantees). In response to persistent calls from Indian Country to fortify this key program, Congress has been increasing the yearly funding, providing almost \$12 million for FYs 2020 and 2021, raising the aggregate cap of \$183.4 million in the aggregate value of private sector loans subject to guarantee. \$25 million for the Indian Guaranteed Loan Program should be provided for FY 2022 to accelerate the financing of business, economic, energy and infrastructure projects; support lines of credit for working capital and payrolls for hiring new employees; and provide assurances sufficient for sureties to issue performance bonds to tribal or other Native-owned business contractors performing infrastructure and other construction contracts.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Office of Indian Energy and Economic Development (OIEED)

- *Fund a minimum of \$25 million for OIEED, with at least \$8 million specifically to advance its economic development initiatives, fund business plans and feasibility studies, and implement the Native American Business Incubators Program*

The Department of the Interior's Office of Indian Energy and Economic Development (OIEED) promotes tribal renewable and conventional energy development and mineral resource development for the purposes of economic development. OIEED is responsible for many creative and successful initiatives that encourage energy resource development on tribal lands, spur economic and business development assistance and training, expand job and skills training opportunities, and leverage limited federal funding to provide access to capital for business development. OIEED now must implement the important new grant program authorized at \$5 million annually in the Native American Business Incubators Program Act of 2020 (P.L. 116-174).

OIEED has received over \$20 million annually, but little of its budget is available specifically for economic development support. Stretching its limited funding, OIEED has launched a series of successful initiatives, including: technical assistance and capacity building workshops and support for feasibility studies to spur economic and business development; expand job and skills training opportunities; and improve and streamline the delivery of financing to tribal nations, tribal enterprises, and individual Indian-owned businesses for business development. Given its added responsibility to implement and fund new grants for Native American Business Incubators, the OIEED's economic development funding must increase substantially to at least \$8 million for FY 2022. Adding funding will enable OIEED to: (1) initiate the Incubator program and award its initial grants; (2) continue to award grants to tribal nations for feasibility studies for business and economic development projects;

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(3) expand the scope and usefulness of its Indian Loan Guarantee Program; and (4) fund tribal nations to explore adoption of the Model Secured Transaction Agreement (MTSTA), enhance codes that tribal nations have already adopted, and work with host states to develop agreements to use state registries to record liens/financing statements arising from tribal codes.

Further, with additional funding, the program could provide funding to develop additional tribal capacity in managerial and technical capabilities, develop resource integration projects, and establish and maintain environmental programs in support of economic development. This funding would be especially useful to tribal nations seeking to establish leasing/environmental programs pursuant to the provisions of the Helping Expedite and Advance Responsible Tribal Home Ownership Act (P.L. 112-151) (HEARTH Act).

## **DEPARTMENT OF THE INTERIOR**

### **Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs**

- *Provide \$2.5 million for the Community Development Program*

Funding lapsed after FY 2011 for the Native American Business Development Institute that helped support community and economic development in Indian Country with strategic planning and technical assistance for long-term programs designed to provide economic stability and jobs for surrounding communities. This targeted funding for strategic planning and technical assistance is essential. Congress must provide at least \$2.5 million for FY 2022 to restore the level of funding previously provided.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill Administration on Native Americans**

- *Provide \$40 million for Social and Economic Development-related grants*

The Administration for Native Americans (ANA) promotes social and economic self-sufficiency, as well as Native languages, in communities through various competitive grants. The largest portfolio of ANA's grants supports Social and Economic Development Strategies (SEDS) and other grants include SEDS for Alaska grantees (SEDS-AK), SEED for sustainable employment, I-LEAD for youth initiatives, and Native American Building Initiative (NABI) grants. In FY 2020, ANA disbursed about \$42.8 million in Social and Economic Development-related grants.<sup>182</sup> However, to enable ANA to prioritize certain grants and technical assistance to new applicants for these grants, additional funding for staffing should accompany a larger budget to fund Social and Economic Development-related grants. For FY 2022, at least \$40 million should be provided for SED-related grants, related staffing needs, and technical assistance requirements necessitated by the recent changes and prioritization of SEDS grants in the Indian Community Economic Enhancement Act of 2020 (P.L. 116-261).

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## DEPARTMENT OF LABOR

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Department of Labor, Employment and Training Administration

- *Provide \$107 million for the YouthBuild Program (consistent with Section 171 of the Workforce Innovation and Opportunity Act (WIOA))*

The YouthBuild program is a workforce development program that provides significant academic and occupational skills training and leadership development to youth ages 16 to 24. The program recruits youth who have been adjudicated, aged out of foster care, dropped out of high school, or are otherwise at risk of not having access to workforce training. Engaging approximately 6,000 youth annually<sup>183</sup>, it provides students an innovative alternative education program through personalized instruction leading them to earning their GED or high school diploma, while simultaneously helping them develop skills that will make them more competitive applicants when they enter the job market.

YouthBuild reports that since 1994, more than 148,000 YouthBuild students have built 32,000 units of affordable and increasingly green housing in rural and urban communities across the United States.<sup>184</sup> There are a number of tribal YouthBuild programs across several states, and Native youth make up roughly three percent of YouthBuild participants.

It is critical that Congress fund the YouthBuild program at a minimum of \$107 million for FY 2022, and that Native youth receive program support from this funding pool commensurate with their percentage of the eligible participant population as well as their identified needs.

## DEPARTMENT OF LABOR

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Department of Labor, Employment and Training Administration

- *Provide at least \$60.5 million for the Indian and Native American Program*

Reducing the education and employment disparity between Native peoples and other groups requires a concentrated effort that provides specific assistance to enhance education and employment opportunities, creates pathways to careers and skilled employment, and prepares and maintains a pathway for Native people to join the nation's middle class. The WIOA Section 166 program serves the training and employment needs of American Indians and Alaska Natives through a network of 178 grantees funded under the Comprehensive Service Program (Adult) and the Supplemental Youth Service Program (Youth) alone.<sup>185</sup>

As the only federal employment and job training program that serves American Indians and Alaska Natives who reside both on and off reservations, it is imperative that funding be maintained at an adequate level for the WIOA Section 166 program. Tribal citizens living on remote reservations or in Alaska Native villages experience great difficulties accessing the state and local workforce. In these areas, the WIOA Section 166 program is often the sole employment and training provider.<sup>186</sup>

Despite the reauthorization of the Division of Indian and Native American Programs (DINAP) through WIOA in 2014, funding of this program has not been adjusted to account for the drastic changes in the economic environment and growth in the Native American population since the 2000 Census.<sup>187</sup> According to the Census, the American Indian and Alaska Native population grew 27 percent between 2000 and 2010 compared to nine percent for the general population. Accordingly, the

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federal government should increase funding for DINAP and WIOA commensurate with this expanded need (and also do the same for other vital Native American workforce development and related grant programs such as the BIA's Job Placement and Training (TPA), Department of Education's Adult and Vocational Education, Tribal Temporary Assistance for Needy Families, and Tribal Vocational Rehabilitation programs). Such increases should be based not only on the significantly expanded size of the service population, but also increases in the cost of services such as tuition for post-secondary educational institutions. Congress should reject outright the proposal to eliminate the stand-alone funding mechanism for WIOA Section 166 workforce development programs in favor of formula funding for Native people in need of such programming, which would effectively amount to a decrease of nearly \$50 million in funding support for this population.

## **DEPARTMENT OF LABOR**

### **Labor, HHS, Education, and Related Agencies Appropriations Bill Native American and Employment Training Council**

- *Provide \$250 thousand for the Native American Employment and Training Council from non-Indian and Native American Program resources*

WIOA also authorizes the Native American Employment and Training Council to advise the Secretary on the operation and administration of DINAP, but it uses funds that are intended for DINAP grantees. The Secretary should use other streams of funding to support the Council. Without an increase in funding, many tribal nations are unable to access the support and training activities for employment opportunities in Indian Country.



## TELECOMMUNICATIONS

Tribal access to modern communications networks supports economic development, tribal governance, healthcare, education, and public safety in tribal and surrounding communities. Consultation in federal decision-making that impacts tribal nations, greater representation in telecommunications infrastructure and media, and increased access for tribal citizens to mobile and fixed broadband internet will foster economic and community development in tribal communities that can, among other benefits, increase the efficiency and impact of certain federal programs and services by delivering them more proactively and cost-effectively. Unfortunately, many tribal communities continue to disproportionately lack broadband access,<sup>188</sup> which directly inhibits tribal nations' ability to support economic opportunity and a good quality of life for their citizens. According to the Federal Communications Commission (FCC), geographic remoteness, a lack of necessary infrastructure, complex permitting processes on tribal lands, and jurisdictional conflicts between state governments and sovereign tribal governments create additional burdens to broadband deployment that are unique to Indian Country.<sup>189</sup>

Tribal communities are among the most unserved or underserved populations with respect to broadband deployment.<sup>190</sup> Congress must create a Tribal Broadband Fund to empower new market opportunities and direct spending in Indian Country. The FCC's Office of Native Affairs and Policy states that "[u]nderstanding the complexity of the digital divide in Indian Country requires an appreciation of the unique challenges facing Tribal Nations, which include deployment, adoption, affordability, and access to spectrum, as well as lack of investment dollars and access to credit and start-up or gap financing."<sup>191</sup> The ability of tribal nations to obtain credit and financing for broadband infrastructure development is limited by their difficulty in collateralizing assets that are held in trust by the federal government and difficulty accessing investment dollars for use in tribal communities.<sup>192</sup> Creation of a Tribal Broadband Fund would promote education, economic opportunity, health, public safety, and governance in tribal communities that currently face a severe broadband deficit.

To address the digital divide in Indian Country, Congress also must create an interagency committee with representation from the FCC's Wireless and Wireline Bureaus, U.S. Department of Agriculture's (USDA) Rural Utilities Service, Commerce's National Telecommunications and Information Administration, and DOI's Office of the Assistant Secretary for Indian Affairs



to address how best to coordinate federal resources from the various agencies to enhance broadband connectivity in Indian Country. This recommendation is consistent with the FCC’s National Broadband Plan, which recommends that “Congress should consider establishing a Tribal Broadband Fund to support sustainable broadband deployment and adoption on Tribal lands, and all federal agencies that upgrade connectivity on tribal lands should coordinate such upgrades with Tribal governments and the Tribal Broadband Fund grant-making process.”<sup>193</sup>

According to a September 2018 Government Accountability Office (GAO) report on broadband internet access on tribal lands, FCC methodology for measuring and reporting broadband access overestimates broadband deployment on tribal lands,<sup>194</sup> indicating that the digital divide between Indian Country and the rest of the United States is even greater than previously reported. Policies and investments focused on the deployment of broadband and the adoption of new technologies will provide increased opportunities for tribal nations to build thriving economies, comprehensive public safety networks, strong public media systems, and other necessary infrastructure.

### *Key Recommendations*

#### **FEDERAL COMMUNICATIONS COMMISSION**

##### **Financial Services Appropriations Bill**

##### **Tribal Broadband Fund**

- *Provide \$1 billion per year for a Tribal Broadband Fund*

Congress must establish a Tribal Broadband Fund to support the development of broadband infrastructure across Indian Country, which will empower new market opportunities and direct spending in Indian Country. Funding is needed for deployment, adoption, affordability, and access to spectrum licenses, including recurring expenses throughout Indian Country. Resources from the Tribal Broadband Fund should be eligible for use on all tribal lands, including off-reservation trust lands. The Tribal Broadband Fund should seek to provide grants, loans, and loan guarantees that emphasize middle-mile connectivity that links local tribal community networks to other network service providers and the internet. The intent of the Fund should be to construct, operate, and maintain more reliable and resilient broadband networks throughout Indian Country.

#### **FEDERAL COMMUNICATIONS COMMISSION**

##### **Financial Services Appropriations Bill**

##### **Federal Communications Commission**

- *Provide \$1.5 million for the Office of Native Affairs and Policy*

The 1934 Communications Act (P.L. 73-416) and subsequent amendments in the 1996 Telecommunications Act (P.L. 104-104) failed to recognize the challenges of deploying telecommunications infrastructure on tribal lands and the critical role tribal governments can and should assume in facilitating such projects. Since 2000, tribal matters have steadily gained recognition at the FCC, and in 2010 the FCC established its Office of Native Affairs and Policy (FCC-ONAP). Since then, FCC-ONAP has held consultations, trainings, and provided vital technical assistance across Indian Country that has resulted in tribal inclusion



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in FCC regulatory matters at unprecedented levels. Through this tribal engagement, the FCC has revamped regulations to assist in bridging the digital divide on tribal lands. However, the FCC-ONAP office was created without dedicated funding, and it was not until passage of the FY 2014 Omnibus that the Office received \$300,000 to support its tribal consultation and training directives.

FCC-ONAP must continue to receive ongoing and increased funding to support the staffing levels necessary to support the closing of the digital divide in Indian Country. FCC-ONAP's consultation, training, technical assistance, and workshops are vital to supporting rural Indian Country's broadband needs. Congress must appropriate \$1.5 million for FCC-ONAP to help ensure the digital future of all tribal nations.

### ***FY 2024 ADVANCE APPROPRIATION (CPB/OMB REQUEST)***

#### **CORPORATION FOR PUBLIC BROADCASTING**

##### **Labor, HHS, Education Appropriations Bill**

##### **Grant Programs**

- *Provide at least \$5 million to fund American Indian and Alaska Native radio stations*
- *Provide at least \$500 thousand for Native Public Media and \$500 thousand for Koahnic Broadcast Corporation*

Native radio stations are critical to the communities they serve because they are often the first source of emergency reporting and information for tribal citizens. Public broadcasters use datacast technology for public alert and warning systems, homeland security, and other public safety purposes. In addition to providing emergency information, Native radio stations provide vital access to healthcare information and other services specific to the tribal communities they serve. For instance, in Arizona, KUYI Hopi Radio provides "House Calls," a health call-in show that connects listeners with a local doctor to field questions related to health issues. In Alaska, KNBA covers news from Alaska Native villages about language revitalization, and other local stories important and relevant to Alaska Native communities. Often, the only forum where Native stories and issues are broadly heard are on Native radio stations.

NCAI supported the \$515 million advance FY 2023 appropriation request for the Corporation for Public Broadcasting (CPB). As such, NCAI opposes any reduction in appropriations that affect funding for Native public media organizations. Since 1976, CPB's two-year advance appropriation has served as a Congressional strategy to protect public media from any immediate political pressure. Community Service Grants (CSGs) account for approximately 70 percent of CPB's appropriation, which directly funds 1,300 local public television and radio stations, including 36 Native radio stations.<sup>195</sup>

CPB also funds the essential system-wide station support services provided by Native Public Media, Inc. and content production and satellite programming distribution by Koahnic Broadcast Corporation. Funding for Native Public Media, Inc. and Koahnic ensures that Native radio stations stay on-air by maintaining compliance with FCC and other federal rules and regulations, providing the training and support Native broadcasters need, and sustaining the satellite delivery necessary for providing broadcast services to some of the most rural and remote locations across Indian Country.

NCAI recommends an FY 2024 advance appropriation of \$5 million in CPB funding for the 36 CPB-qualified Native radio stations serving federally recognized American Indian tribal nations and Alaska Native villages; it also recommends an FY 2024 advance appropriation of \$500,000 for Native Public Media and \$500,000 for Koahnic Broadcast Corporation for technical support services to Native radio stations.



## AGRICULTURE & RURAL DEVELOPMENT

Native peoples were farming this land long before the establishment of the first American colony. To this day, agriculture remains a major economic force in Indian Country, especially as a job creator for rural tribal communities. The U.S. Department of Agriculture's (USDA) 2017 Census of Agriculture counted at least 79,198 American Indian farm and ranch operators utilizing more than 59 million acres of land.<sup>196</sup> These farms and ranches sold \$3.5 billion of agricultural products, including more than \$1.4 billion of crops and \$2.1 billion of livestock and poultry.<sup>197</sup> Additionally, the 2007 Census of Agriculture Fact Sheet notes that "American Indian farm operators are more likely than their counterparts nationwide to report farming as their primary occupation...to derive a larger portion of their overall income from farming...[and] to own all of the land that they operate."<sup>198</sup> Tribal nations and individual Native farmers and ranchers rely on active partnerships with USDA to sustain and advance common interests across the broad array of services that this federal agency provides for tribal governments.

USDA programs span a wide range of areas that impact Indian Country, including food safety, housing, business development, telecommunications and broadband, water systems, crop insurance, nutrition, land conservation, forestry, research, and of course, the programs designed to assist farmers. From 2001 to 2018, USDA Rural Development (USDA RD) invested more than \$6.2 billion in Indian Country.<sup>199</sup> As such, tribal nations look to the myriad services, programs, and resources available from USDA to ensure sustained prosperity and economic security for American Indians and Alaska Natives – not only through its programs to farmers and ranchers, but also through programs that serve tribal governments, natural resource managers, Native youth, colleges, water infrastructure providers, tribal utilities and housing providers, and tribal communities.

The 2018 Farm Bill contained a historic number of new tribal provisions, several of which need increased funding, outreach, and technical assistance support to ensure full and proper implementation consistent with the intent of Congress. Additionally, 2018 Farm Bill extended tribal self-determination contracting under the Indian Self-Determination Education and Assistance Act of 1975 (P.L. 93-638) to two USDA programs in food procurement and forestry management.

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## Key Recommendations

### DEPARTMENT OF AGRICULTURE

#### Agriculture Appropriations Bill

##### Office of Tribal Relations

- *Provide at least \$1.5 million for the USDA's Office of Tribal Relations*

The Office of Tribal Relations (OTR), located within the Office of the Secretary, is a critical voice for agriculture in Indian Country within USDA, especially since a vast majority of USDA's services and programs impact tribal lands and communities. Often, when USDA decisions are being made, there is a need to utilize lines of communication between the agency and Indian Country. OTR serves a linchpin role in expanding all USDA program support throughout Indian Country, as well as ensuring that relevant programs and policies are efficient, effective, accessible, and developed in consultation with impacted American Indian and Alaska Native (AI/AN) tribal governments and citizens. OTR also is responsible for coordinating policies affecting AI/ANs across other federal agencies, including working with agencies regarding the new P.L. 93-638 tribal self-determination provisions. With the importance and growth of food sovereignty and food production (including agriculture) in Indian Country, especially with the ongoing food issues associated with the COVID-19 pandemic and Farm Bill implementation, OTR's role supporting the government-to-government relationship is more essential now than ever.

OTR's initial funding level of \$1 million in FY 2010 was cut to \$502,000 in FY 2011 and remained at only around \$500,000 annually through FY 2020.<sup>200</sup> This left OTR with insufficient personnel and resources to support its vast mission within the Department, in partnership with other federal departments, and across Indian Country. While OTR's budget was increased back to \$1 million for FY 2021,<sup>201</sup> with OTR's added responsibilities, it is clear that OTR requires additional resources to carry out its many vital functions effectively.

For example, many of the new 2018 Farm Bill tribal provisions require direct engagement by OTR. Providing insufficient funding will prevent OTR from adequately fulfilling its expanded scope of work, which includes implementing programs, providing technical assistance, and producing and disseminating curricula and informational materials to ensure tribal nations have the education and training they need. OTR has been responsible for coordinating and facilitating four additional tribal consultations on the 2018 Farm Bill, and those activities will only expand as more programs are implemented across USDA.

### DEPARTMENT OF AGRICULTURE

#### Agriculture Appropriations Bill

##### Rural Development, Rural Utilities Programs, and Rural Housing and Community Facilities Programs

- *Provide at least \$1.5 million for the USDA's Office of Tribal Relations*

As tribal nations work to foster sustained economic security and community prosperity, it is imperative that tribal citizens and businesses on tribal lands have access to environments that are stable; conducive to economic and community development; and supportive of schools, health facilities, first responders, and local commerce.

USDA-RD programs support a broad array of utility needs and business activities in Indian Country by providing loans, grants, and other assistance for community facilities; housing financing, preservation and repair; electric utilities; high-cost

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energy; telecom infrastructure and distance learning; broadband infrastructure, water/waste systems; and other infrastructure deployment. USDA-RD manages programs across three mission areas: the Rural Business and Cooperative Programs, Rural Housing and Community Facilities Programs, and Rural Utilities Programs. Through its Rural Development mission area, USDA administers and manages housing, business, and community infrastructure and facility programs through a national network of state and local offices. These programs are designed to improve the economic stability of rural communities, businesses, residents, farmers, and ranchers and improve the quality of life in rural America.

- *Provide \$980.624 million to Rural Utility Services (RUS)*

USDA-RD began implementing changes in 2012 designed to improve access to RUS funding for individuals living in Substantially Underserved Trust Areas (SUTA) – including tribal lands and lands owned by Alaska Native Regional Corporations and Village Corporations – to improve basic services, including: water and waste disposal, rural electrification and high-cost energy, telecommunications and broadband infrastructure, and distance learning and telemedicine. The SUTA changes, originally authorized by the 2008 Farm Bill, still require additional funding for administration as well as for programs and loan authority within RUS. It is important that more funding is made available to provide the infrastructure development and upgrades necessary in Indian Country.

Of special concern is the need to maintain funding for tribal set-asides for water, wastewater, and solid waste management for Indian Country and Alaska Native villages. USDA's Water and Environmental Program (WEP) provides a combination of loans, grants, and loan guarantees for drinking water, sanitary sewer, solid waste, and storm drainage facilities in tribal and rural areas and cities and towns of 10,000 or less. WEP also makes grants to non-profit organizations to provide technical assistance and training to assist rural communities with water, wastewater, and solid waste management.

More than 12 percent of tribal homes lack access to safe drinking water and basic sanitation, which is a rate more than 20 times higher than the national average.<sup>202</sup> For example, many Alaska Native villages must transport human waste in large containers to open pit sewage lagoons. The federal government's failure to address this situation is unacceptable, especially in light of its trust obligation to tribal nations. The existing federal budget does not make a significant dent in addressing this fundamental deficit in the quality of life for AI/ANs and recent cuts to this budget makes it worse, exposing tribal communities to unhealthy water and its subsequent detrimental impacts to human health, economic development, and community morale.

- *Include \$1.5 million for USDA Rural Development Tribal Technical Assistance Program*

The 2018 Farm Bill mandated the establishment of a Tribal Technical Assistance Program within USDA-RD designed to address the unique challenges Indian Country faces when seeking infrastructure, cooperative development, housing, and other development opportunities funded by USDA-RD. Funding for this newly established area is especially critical due to the unique circumstances surrounding lending and infrastructure deployment in tribal communities, which often leads to either misinformation provided to tribal nations or misinterpretation of tribal applications. Appropriating \$1.5 million to establish this program will help to eliminate these unnecessary barriers to development in Indian Country.

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## DEPARTMENT OF AGRICULTURE

### Agriculture Appropriations Bill

#### Rural Development, Rural Housing and Community Facilities Programs

- *Provide a minimum of \$29 billion in loan authority for the Rural Housing and Community Facilities Programs*

In FY 2013, the Rural Housing Service (RHS) programs provided \$177 million in economic support to American Indian and Alaska Native enterprises and communities as well as tribal colleges. During this time, USDA-RD provided 56 Single Family Housing direct loans (totalling \$119 million) and 1,100 Single Family Housing loan guarantees (totalling \$155 million).<sup>203</sup> In FY 2020, tribal colleges received \$5 million under the Tribal College Community Facilities Initiative, and tribal communities, alongside private, nonprofit community-based housing and community development organizations, low-income rural communities, and tribal nations received more than \$96 million in loan and grant financing under the Rural Housing and Community Facilities Programs.<sup>204</sup>

Access to housing, community, and home repair financing provides Native individuals, families, and communities with security, credit facilities, and repair and weatherization needs. This financing also supports community and educational facilities and provides employment in construction and related industries that flows from access to capital in Indian Country.

## DEPARTMENT OF AGRICULTURE

### Agriculture Appropriations Bill

#### USDA Natural Resources Conservation Service (NRCS)

- *Provide \$1.75 billion for the Environmental Quality Incentives Program at a minimum of required by the 2018 Farm Bill*
- *Provide at least \$725 million for the Conservation Stewardship Program*<sup>205</sup>

American Indians and Alaska Natives consider their natural resources sacred and depend heavily upon them for economic, cultural, and spiritual sustenance. Historically, federal natural resources funding for tribal nations has been limited, as tribal nations are not eligible for dozens of federal natural resource programs. While working to sustain essential efforts amidst the harsh budget climate and potential cuts to funding, tribal nations should have access to new opportunities afforded by USDA's NRCS programs. The 2008 Farm Bill authorized the Secretary of Agriculture to provide up to 90 percent of the costs associated with planning and implementing conservation practices for tribal nations.<sup>206</sup> In addition, up to 30 percent of such payments may be provided in a short-term advance for purchasing materials or contracting.<sup>207</sup> Tribal nations also are included in a five percent set-aside of Environmental Quality Incentives Program (EQIP) funds, and a five percent set-aside of Conservation Stewardship Program acres for socially disadvantaged farmers or ranchers.<sup>208</sup> Since the Wildlife Habitat Incentives Program was rolled into EQIP in the 2014 Farm Bill, NCAI requests that the funding levels continue to steadily increase for EQIP, which provides financial and technical support to tribal nations and others to install or implement structural and management conservation practices on eligible agricultural land.

The Conservation Stewardship Program (CSP) is another vital program in the NRCS. The CSP provides crucial help in reducing soil erosion, enhancing water supplies, improving water quality, increasing wildlife habitat, and reducing the damage caused by floods and other natural disasters. The CSP program is an important resource for tribal nations.



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## DEPARTMENT OF AGRICULTURE

### Agriculture Appropriations Bill

#### National Institute of Food and Agriculture, Federally Recognized Tribal Extension Program

- *Provide \$30 million for the Federally Recognized Tribal Extension Program (FRTEP)*

Congress mandates research and extension services in every county in the nation.<sup>209</sup> However, not until 1990 were these services – which support farmers, ranchers, natural resources managers, youth (via 4-H youth programs), and communities by providing an agent to liaise with other USDA programs, provide farm and ranch business management training, and coordinate special training programs, including application of new agriculture technologies – extended specifically to Indian Country.<sup>210</sup> While there are more than 3,100 extension offices available to farmers nationwide, fewer than 40 extension agents serve Indian reservations, with current funding of only \$3 million available to 1862 and 1890 Land-Grant Institutions. This amount for FRTEP has remained the same since 1990, despite the fact that the program has grown extensively over the last 30 years.<sup>211</sup> With the 2018 Farm Bill making 1994 Tribal Colleges and Universities eligible for the program – essentially doubling the pool of institutions – increased funding is essential to ensure that FRTEP programs will continue to serve tribal farmers and ranchers, and that those services can be expanded to newly eligible institutions. An increase to \$30 million would begin to address this persistent inequity and allow for additional service by more than doubling FRTEP staff and the number of Native youth served by the program.

## DEPARTMENT OF AGRICULTURE

### Agriculture Appropriations Bill

#### Food Distribution Program on Indian Reservations

- *Provide \$200 million for the Food Distribution Program on Indian Reservations (FDPIR)*
- *Provide \$5 million to develop a traditional foods market for FDPIR*
- *Provide \$5 million for the Tribal Self-Governance Demonstration Program*

FDPIR is currently serving approximately 276 tribal nations and is a critical food assistance program,<sup>212</sup> particularly in areas that do not have easy access to Supplemental Nutrition Assistance Program (SNAP) offices or authorized food stores. Through more than 100 Indian Tribal Organizations (ITOs) and three State Agencies, FDPIR provides USDA foods to low-income households and the elderly living on Indian reservations and to AI/AN households residing in eligible areas near reservations or in Oklahoma.<sup>213</sup> The ITOs also provide employment to local and tribal personnel who administer the program. Average monthly participation for FY 2019 was 83,800.<sup>214</sup> Additional funding is needed to address the new demands on the programs, rising food costs – especially the increasing price of meat-based proteins – and to improve program operations at ITO sites, many of which have lacked the administrative funds necessary to update critical equipment like refrigerators and freezers. In the 2018 Farm Bill, Congress authorized funds for USDA to purchase more traditional and locally grown foods for the program's food package. The purchase of traditional and locally grown foods improves both the health of the food package and can stimulate the local and regional economy through agricultural production, especially when those foods are sourced from Native food businesses. Lastly, in the 2018 Farm Bill, Congress authorized a demonstration program enabling USDA to enter into 638 Self-Determination contracts with one or more tribal organizations for the food procurement of FDPIR foods. This promotes tribal sovereignty and enables tribal nations and organizations to tailor this vital program to meet the specific tribal cultural and nutritional needs through the foods they select for their food packages; in addition, it helps to support tribal and individual Native food producers and expand production.



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## DEPARTMENT OF AGRICULTURE

### Agriculture Appropriations Bill

#### Industrial Hemp Production, Regulation, and Research

- *Provide such sums as may be necessary to support tribal implementation of industrial hemp production*

The 2014 Farm Bill authorized pilot programs for hemp research at higher education institutions when done in accordance with state law. The lack of parity for tribal law and higher education institutions in Indian Country created ambiguity as to whether tribal nations could directly benefit from this program without authorization under state law. However, the 2018 Farm Bill legalizes industrial hemp production when done in accordance with enacted federal criteria and allows states and tribal nations to assume primary regulatory authority over such production after obtaining approval from USDA.<sup>215</sup> Further, committee appropriations reports outline the intent for Congress in P.L. 115-334 to make industrial hemp available for all USDA programs, including Rural Development.<sup>216</sup> For Indian Country to realize the full economic benefit of this innovative development, a robust appropriation is necessary for USDA to continue working in consultation with tribal governments to develop the tribal plan process necessary for tribal nations and tribal producers to begin industrial hemp production in Indian Country.



## ENVIRONMENTAL PROTECTION

Tribal peoples maintain strong physical, cultural, spiritual, and other interdependent relationships with their homelands and natural resources. As a result, tribal peoples directly and often disproportionately suffer the impacts of environmental degradation. Federal funding to support environmental protection for tribal lands was not forthcoming until more than 20 years after the passage of the Clean Water and Clean Air Acts.<sup>217</sup> Tribal nations strive to achieve equity, but significant gaps remain.

Almost 40 years after the passage of the Clean Water Act, only 45 of 70 eligible tribal nations have Environmental Protection Agency (EPA)-approved water quality standards,<sup>218</sup> which are a cornerstone of the Clean Water Act (P.L. 92-500) (CWA). Nearly all states have been implementing the CWA through approved water quality standards for decades. Approximately 12 percent of tribal homes lack access to safe drinking water and basic sanitation, a figure that is nearly 20 times higher than the national average and one that illustrates the unsafe living conditions facing many Native families.<sup>219</sup> Significant gaps in environmental protection still remain in many areas of Indian Country that should be closed through the implementation of monitoring, regulatory, and on-the-ground activities.

Fulfilling the EPA's Indian policy goals remains a challenge. The federal government must ensure tribal nations have fair and equal opportunities to preserve and enhance the environmental quality of Indian Country for present and future generations and to sustain tribal cultures. In the recommendations below, NCAI requests that EPA tribal programs receive increased resources to achieve parity with states through sustainable and increased base funding.

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## Key Recommendations

### ENVIRONMENTAL PROTECTION AGENCY

#### Interior, Environment, and Related Agencies Appropriations Bill Environmental Protection Agency

- *Provide \$100 million for the Indian Environmental General Assistance Program (IGAP)*

Program capacity building is a top environmental priority identified by tribal nations as part of the EPA National Tribal Operations Committee National Tribal Caucus.<sup>220</sup> IGAP is unique among federal programs in that it provides a foundation that tribal nations can leverage to support other greatly needed programs, such as planning for climate change and natural resource management, energy efficiency activities, and small-scale renewable energy projects.

This increased collaborative leveraging potential makes IGAP a wise federal investment. However, IGAP funding has not kept pace with the growth of tribal environmental programs over the years,<sup>221</sup> forcing tribal nations to perform the expanded duties of growing programs with diminishing funds. Furthermore, tribal demand for program implementation includes the pressing need to establish climate change adaptation plans. A \$175,000 per tribal nation distribution, totaling approximately \$100 million, constitutes an equitable adjustment.

### ENVIRONMENTAL PROTECTION AGENCY

#### Interior, Environment, and Related Agencies Appropriations Bill Environmental Protection Agency

- *Provide a five percent tribal set-aside within the National Safe Drinking Water State Revolving Fund (DWSRF)*
- *Provide a five percent tribal set-aside within the National Clean Water Act (CWA) State Revolving Fund (SRF)*

The lack of access to safe drinking water and basic sanitation in Indian Country continues to threaten the public health of American Indian and Alaska Native communities. Approximately 12 percent of tribal homes do not have safe water or basic sanitation facilities.<sup>222</sup> The fundamental inequity in the quality of tribal water systems must be addressed, and the DWSRF and CWSRF fund critical public health water quality and infrastructure needs for tribal communities. Presently, under the Safe Drinking Water Act Section 1452(i) [42 U.S.C. §300j-12(i)], “EPA may use 1.5% of the DWSRF amounts appropriated annually to make grants to Indian tribes and Alaska Native villages. Since FY 2010, Congress has authorized EPA to reserve up to 2.0% of the appropriated funds for Indian tribes and Alaska Native villages. This authority was included in P.L. 112-74 and has continued through the terms and conditions of subsequent appropriations.”<sup>223</sup>

Likewise, the Clean Water Act authorized the “Clean Water Indian Set-Aside Grant Program” (CWISA) and funded it through the CWSRF. In FY 2010, Congress authorized an increase from 1.5 percent to 2 percent from the CWSRF for the CWISA set-aside. Since FY 2016, the CWISA appropriation from Congress has been either two percent of the CWSRF or \$30 million, whichever is greater.

Given the disparate access of tribal communities to safe and clean water, the tribal set-aside from the Safe and Clean Drinking Water State Revolving Funds should be increased to five percent. Further, in accordance with the 2016 Water Resources

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Development Act reauthorization, an eligible use of funds should continue to include water operator training and certification. Such an increase for sewage treatment construction programs would help achieve the basic human health and environmental protection needs of tribal communities.

## **ENVIRONMENTAL PROTECTION AGENCY**

### **Interior, Environment, and Related Agencies Appropriations Bill Environmental Protection Agency**

- *Provide a 20 percent tribal set-aside in Water Pollution Control Grants (Clean Water Act Section 106)*

CWA Section 106 grants are vital to tribal efforts to control water pollution, including water quality planning and assessments, developing and implementing water quality standards and total maximum daily loads, ground water and wetland protection, and nonpoint source control activities. The number of eligible tribal nations to receive CWA Section 106 funding has increased from 141 in 1998 to at least 330.<sup>224</sup> Tribal recipients are now required to submit their water quality data through the Water Quality Exchange (WQX) as part of their Section 106 reporting requirements without any increase in Section 106 program funding. The national CWA 106 allocation to tribal nations has flatlined and – in certain cases – decreased in some years during the same time period (e.g., 15.49 percent in 1998 to 11.4 percent in 2020).<sup>225</sup> The current tribal allocation is too low; successful tribal CWA implementation requires at least 20 percent of the national CWA Section 106 allocation to keep pace with the expansion of tribal programs.<sup>226</sup>

## **ENVIRONMENTAL PROTECTION AGENCY**

### **Interior, Environment, and Related Agencies Appropriations Bill Environmental Protection Agency, Nonpoint Source Pollutant Control – Clean Water Act Section 319**

- *Provide \$13 million for the Tribal Nonpoint Source Pollutant Control and Eliminate the cap on tribal funding for Nonpoint Source Pollutant Control*

CWA Section 319 provides tribal nations with grants to develop and implement polluted runoff and other nonpoint source control programs that address critical water quality concerns identified in the Section 106 program and other monitoring programs. Only 45 of the 574 federally recognized tribal nations have such EPA-approved Water Quality Standards (WQS),<sup>227</sup> compared to all 50 states that have WQS programs.<sup>228</sup> WQS are the necessary foundation to engage in water pollution control activities, making this program critical, particularly given climate change will significantly affect water quality and collaboration across jurisdictions will be required. As tribal demand for this competitive funding exceeds availability, tribal nations request a permanent elimination of the one-third of one percent cap<sup>229</sup> placed on the tribal allocation to help close the vast inequity in funding and programmatic implementation compared to states.

## **ENVIRONMENTAL PROTECTION AGENCY**

### **Interior, Environment, and Related Agencies Appropriations Bill Environmental Protection Agency**

- *Provide a 10 percent tribal set-aside of Environmental Information Exchange Network funding*

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The EPA Environmental Information Exchange Network is an innovative partnership among tribal nations, states, and the EPA to provide better access to high-quality data and facilitate data management and the efficient submission of data. Both tribal nations and the EPA have recognized the importance of improving the flow of tribal data and environmental information. Tribal nations have been able to take a more active role in improving data collection as a result of tribal grants offered as part of the Information Exchange Network.

Tribal nations urge sustained funding for tribal access to the Information Exchange Network, with a minimum 10 percent tribal set-aside from overall Information Exchange Network funding, without restrictions for providing development and implementation support for tribal nations that are just coming on board and operations and maintenance funding to tribal nations with existing programs.

## **ENVIRONMENTAL PROTECTION AGENCY**

### **Interior, Environment, and Related Agencies Appropriations Bill Environmental Protection Agency**

- *Provide at least a \$17 million tribal set-aside in funding for the Great Lakes Restoration Initiative*

Tribal nations in the Great Lakes region have joined together to establish a tribal-federal-state collaboration, which stands as a model for replication across the country.<sup>230</sup> The Great Lakes Restoration Initiative is the largest federal investment in the Great Lakes in two decades.<sup>231</sup> More than 5,000 related projects have been funded since its inception.<sup>232</sup> An Inter-agency Task Force led by EPA has developed action plans to implement the Initiative. The most recent action plan covers fiscal years 2020 through 2024 and targets the most significant threats to the Great Lakes ecosystem. These threats include aquatic invasive species, nonpoint source pollution, and toxic substances.<sup>233</sup> Funding for tribal nations under the Great Lakes Restoration Initiative should be funded at least at \$17 million for FY 2022.



## NATURAL RESOURCES

American Indians and Alaska Natives have nurtured, lived, and thrived off this land as first stewards since time immemorial. The cultures, traditions, lifestyles, communities, foods, treaty rights, and economies of tribal nations are inextricably linked to their natural resources. Yet many critical resources are disappearing faster than can be restored.<sup>234</sup> In response to these global changes, NCAI supports broader incorporation of tribal traditional ecological and scientific knowledge into resource management practices. Native peoples have cultivated and developed ecological stewardship practices for millennia. They are sustainable and practical, and importantly, they are time-tested methods for not only resource but also tribal cultural survival. Given the state of the economy and national priorities, coupled with the increasing and pressing negative impacts of climate change, the vitality and sustainability of natural resources is even more essential to the health of American Indian and Alaska Native peoples, communities, cultures, and economies.

Tribal nations use their unique knowledge and skills in concert with modern resource management practices. This often occurs collaboratively with community and non-tribal organizations and produces tangible outcomes and model programs of excellence. Tribal nations and their communities can cite many examples where they have shaped the successful restoration and sustainable management of fragile natural resources.<sup>235</sup> These successes come from a commitment to stewardship and often require complex and long-term collaboration with states, regional organizations, local governments, and other stakeholders in larger ecosystem management efforts.

Tribal nations, as proven effective managers of their own resources, must be provided with the appropriate funding and support as required by the federal government's treaty and trust responsibilities. Federal support for tribal natural resource management efforts, however, has not kept pace with those efforts.<sup>236</sup> As a result, tribal ecological knowledge and natural resources management initiatives are underfunded.

Federal investment in tribal natural resources management helps sustain tribal land, grow economies, and support continued prosperity. As tribal communities become more secure in their environments, food and water systems, and their abilities to



manage those resources, tribal nations and tribal citizens are free to turn to other needs: creating jobs, building supportive infrastructure, and forming healthy tribal and neighboring community relations. Federal investment in tribal natural resource management will foster tribal economic self-sufficiency, cultural revitalization, and collaborative working relationships across jurisdictions – supporting communities and economies throughout the United States.

However, for tribal nations to fully manage their natural resources and to establish and maintain natural resource management programs, funding for Bureau of Indian Affairs (BIA) natural resource programs must increase, as they represent a significant source of funding to protect tribal lands. Further, BIA's trust resource management practices should be modernized in a manner consistent with the Indian Trust Asset Reform Act. Instead, tribal funding opportunities have declined incrementally over decades, and more precipitously than other natural resources programs in DOI. Tribal nations continue to be excluded from eligibility for billions of dollars from dozens of natural resource programs across federal agencies that are otherwise available to states, local governments, and other entities.

### *Key Recommendations*

## **DEPARTMENT OF THE INTERIOR**

### **Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs**

- *Provide \$60 million for BIA Rights Protection Implementation*

The BIA Rights Protection Implementation Program has a clear and direct relationship to the federal government's trust responsibility to tribal nations. This program ensures compliance with federal court orders by implementing effective tribal self-regulatory and co-management systems.<sup>237</sup> Contract agreements are designed to: assure proper regulation and management of off-reservation fish, wildlife, shellfish, and plant-gathering activities; provide conservation enforcement; and perform the necessary assessment and habitat protection activities that help ensure abundant and healthy populations of ceded territory resources. The benefits of these programs accrue not only to tribal nations, but to surrounding communities. The efforts of program participants have been lauded in regional and national forums and serve as proven innovative models in an era where multi-jurisdictional cooperation and cooperative programming are essential aspects of a sustainable economic approach to national development.<sup>238</sup>

In particular, there are 49 tribal nations whose off-reservation hunting, fishing, and gathering rights in the Pacific Northwest and Great Lakes regions are supported by this program.<sup>239</sup> Five umbrella intertribal organizations assist tribal nations in implementing relevant court orders and carrying out co-management responsibilities. In addition, this program supports implementation of the United States-Canada Pacific Salmon Treaty.<sup>240</sup> Increasing funding for BIA Rights Protection Implementation to \$56.5 million in FY 2022 is a strategic investment in resources that benefit all Americans and is consistent with the federal trust responsibility. This funding is essential for the protection of tribal economic, subsistence, cultural, and medicinal practices, as well as the sustenance of healthy productive tribal nations and their surrounding states, local governments, and neighboring communities.

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## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs

- *Provide \$35 million for the Tribal Climate Resilience Program*

Tribal peoples, lands, and infrastructure are disproportionately impacted by the effects of climate change, and due to infrastructure inadequacies and their often remote locations, tribal nations do not have sufficient personnel to implement programs for climate adaptation. Despite having some of the most pristine habitat in the United States, tribal nations have been historically underfunded for wildlife and natural resource management and conservation.<sup>241</sup> There are 574 federally recognized tribal nations and more than 300 reservations in the United States. Tribal nations manage 95 million acres of land, 11 million acres more than the National Park Service (NPS).<sup>242</sup> Tribal lands contain more than 997,000 acres of lakes, 13,000 miles of rivers, and 18 million acres of forested lands.<sup>243</sup> Tribal lands provide vital habitat for more than 525 federally listed plants and animals, many of which are both ecologically and culturally significant to tribal nations.<sup>244</sup>

In 2020, Congress recognized the importance of this program and increased its funding to \$14.9 million.<sup>245</sup> Due to climate-based threats increasing in both intensity and frequency, tribal nations strongly support funding this critical program at \$35 million in FY 2022 to assist in building capacity to design and implement tribal natural resource management programs to address climate change.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs

- *Provide \$10.5 million for the Water Management, Planning, and Pre-Development Program*
- *Provide \$12 million for the Water Resources (TPA) Program*

Funding from the BIA Water Management, Planning, and Pre-Development Program is used to assist tribal nations in protecting and managing their water resources. However, from FY 2002 to FY 2012, funding for this program declined approximately 30 percent from \$8.05 million to \$5.789 million.<sup>246</sup> In FY 2020, the program received \$8.525 million.<sup>247</sup> Although this amount returns program funding to past levels, this is still insufficient to meet the needs of tribal nations.<sup>248</sup> Funding should be \$10.5 million.

The Water Resources (TPA) Program allows tribal nations and BIA regional offices to provide for the protection and management of tribal water resources. Funding is used for the administration and management support of individual tribal water programs. Tribal nations use funding to participate in the management and use of regional water resources connected to tribal and/or Indian trust lands, including public domain allotments. Under this program, funds are also provided to support tribal nations' diverse water management needs. Funding for the Water Resources TPA Program has not increased in decades and therefore should be increased to \$12 million in FY 2022.

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## DEPARTMENT OF THE INTERIOR

### Interior - Environment Appropriations Bill

#### Bureau of Indian Affairs

- *Provide \$12 million for the Water Rights Negotiation/Litigation Program*

Funds from the Water Rights Negotiation/Litigation program are used to define and protect Indian water rights and, if possible, to settle claims or, if not, litigate claims. The primary priority of the program is to provide all necessary documentation and other material that may be required to further the United States government's water claims on behalf of a tribal nation. The inability to access quality water and exercise tribal water rights continues to create significant health, cultural, economic development, farming and ranching, and governance challenges for tribal nations and other communities, especially in light of major environmental events over the past few years. The Water Rights Negotiation/Litigation Program should be funded at \$12 million so that water rights can be protected and disputes resolved.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill

#### Bureau of Reclamation Water Settlement Fund

- *Permanently reauthorize the Reclamation Water Settlement Fund (RWSF)*

A permanent reauthorization of the RWSF will ensure that the time-tested Indian water rights settlement process can continue into the future without the threat of losing settlement funding by a date certain. The RWSF, codified at 43 U.S.C. §407, is only authorized to receive deposits beginning in FY 2020 and until FY 2029. Under §407(b), the sunset for a "Deposits to funds" occurs in 2029. The "expenditures from Fund" under §407(c) goes until 2034. Presently, the fund is heavily relied upon by currently enacted and future Indian water rights settlements.

The RWSF will be a vital resource for funding infrastructure projects, such as irrigation canals, dams and storage reservoirs, treatment facilities, and distribution facilities tied to Indian water rights settlements. These infrastructure projects ensure that wet water reaches tribal lands and Native peoples for domestic, commercial, municipal, agricultural, and industrial uses. Importantly, future Indian water rights settlements are currently authorized to tap into the RWSF for infrastructure needs only until FY 2034 when the fund expires.

However, the process of preparing for water settlements, actually negotiating settlement language, and implementing settlements is a years-long process, often spanning decades. Each water settlement is unique and individual, and takes into account minute hydrological details; specific population considerations; historical considerations; political, legal, and scientific realities; consideration of the federal trust responsibility; and present and future water uses. For this reason, having a sunset date of 2034 for the Reclamation Fund unduly burdens the settlement process, placing a timetable on the water settlement process that may only be achieved in some instances. In other instances, sunseting of the Fund could leave parties at the table during negotiations, only to have critical funding resources removed from the process, potentially unraveling any progress made and resulting in overall water stakeholder uncertainty.

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NCAI strongly urges Congress to permanently reauthorize the RWSF to ensure funding resources are available for all current and future enacted Indian water rights settlements. This approach ensures a future of water security, which is a paramount concern for regions combatting severe drought and water shortages in particular.

## **DEPARTMENT OF THE INTERIOR**

### **Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs**

- *Provide \$4.5 million for the Endangered Species Program*

The BIA's Endangered Species Program is the only program that provides tribal nations with technical and financial assistance to protect endangered species on Indian trust lands. From FY 2016 through FY 2019, annual funding was approximately \$2.6 million.<sup>249</sup> Congress increased funding to this program by \$1 million in 2020.<sup>250</sup> This is only slightly more than the FY 2002 appropriation of \$3 million.<sup>251</sup> NCAI requests \$4.5 million so that tribal nations can continue to support habitat and environmental requirements to protect endangered species, especially in light of increasing threats caused by climate change and human development.

## **BIA FISH AND WILDLIFE**

Three key BIA-funded subactivities that empower tribal nations to manage reservation fish and wildlife resources across the nation are the Tribal Management/Development Program (TMDP); Fish, Wildlife and Parks; and Natural Resources programs. These programs help meet the growing national demand for outdoor recreation and tourism, as well as support the protection of millions of acres of habitat necessary for the conservation of fish, wildlife, and plant species. These programs also employ local tribal staff to assist the United States in meeting its trust responsibility to tribal nations.

## **DEPARTMENT OF THE INTERIOR**

### **Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs**

- *Provide \$25 million for the BIA Tribal Management/Development Program*

From FY 2002 to FY 2012, annual funding for TMDP declined 17 percent from \$9.3 million to \$7.7 million.<sup>252</sup> For FY 2010, Congress restored funding for several decades-old, recurring TMDP programs, including the Lake Roosevelt Management, Upper Columbia United Tribes, Wetlands/Waterfowl Management, and Intertribal Bison Cooperative programs.<sup>253</sup> In FY 2017 and FY 2018, Congress provided \$11 million, and in FY 2020, \$13 million for TMDP programs.<sup>254</sup> While these investments are appreciated, an increase to \$25 million for FY 2022 is necessary to substantially strengthen tribal conservation successes and meeting the federal government's trust responsibility.

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## DEPARTMENT OF THE INTERIOR

### Interior Environment, and Related Agencies Appropriations Bill

#### Bureau of Indian Affairs

- *Provide \$7 million for Fish, Wildlife, and Parks Projects for Fish Hatchery Operations*
- *Provide \$8 million for Fish, Wildlife, and Parks Projects for Fish Hatchery Maintenance*
- *Provide \$10 million for the Wildlife and Parks Program (TPA)*

Tribal fish hatcheries across Indian Country provide essential jobs, food, fish species preservation, and revenue for tribal nations, as well as cultural support and opportunities for tribal youth to pursue environmental careers. Tribal standards in fisheries management are high because tribal nations are highly dependent upon these operations, and they recognize their responsibility to steward and sustain tribal natural resources. These programs create jobs, advance economic self-sufficiency, and reduce costs by promoting cooperation and local economic growth.

At the request of Congress, the BIA conducted a comprehensive needs assessment study in FY 2006, which identified a \$48 million need in tribal hatchery and rehabilitation costs.<sup>255</sup> In this context, funding levels of \$7 million for Fish Hatchery Operations and \$8 million for Fish Hatchery Maintenance in FY 2022 at 88 tribal fish hatcheries across the country are small investments that will produce significant returns.

Fish Hatchery Operations funding is provided to fish-producing tribal nations to support hatching, rearing, and stocking programs. Fish released from tribal hatcheries benefit Native and non-Native commercial and sport fisheries in the United States and Canada, and help support Native subsistence and ceremonial needs. Throughout the rest of the country, recreational opportunities created by the stocking of trout, walleye, and other species attract numerous sport fishermen to reservations and assist in developing reservation economies.

Fish Hatchery Maintenance funding supports approximately 200 hatchery maintenance projects and supplements facility maintenance for 88 tribal hatcheries on a competitive basis. Typical projects include relining raceways, replacing water pumps, upgrading alarm systems, fencing, roof and ceiling repair, and rearing tank installation.

BIA Wildlife & Parks (TPA) supports tribal activities in the areas of fisheries, wildlife, outdoor recreation, and public use management, conservation enforcement, and related fields. Activities conducted are determined by tribal nations, and cover a broad array of diverse fisheries, wildlife, conservation enforcement, public use, habitat management and related programs. Tribal nations, through a local priority-setting process, determine any changes in annual funding and performance. Annual funding for Wildlife & Parks (TPA) has remained relatively flat since FY 2010 at approximately \$5 million, with only a modest increase of about \$1 million in funding in FY 2020.<sup>256</sup> Funding should be increased to \$10 million in FY 2022 to expand the capacity of tribal fish and wildlife management departments to meet the needs of their communities and to work with federal, state, and local partners.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill

#### Bureau of Indian Affairs

- *Provide \$12 million for the Natural Resources (TPA) program*

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The Natural Resources (TPA) Program fulfills the federal government's trust obligation through improved management, protection, and development of Indian land and natural resource assets. Funding for the Natural Resources program should be increased to \$12 million for FY 2022. This investment will substantially increase tribal land and resource management capabilities and increase economic independence through generating revenues for tribal economies.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs

- *Provide \$12 million for Invasive Species Program*

The Invasive Species Program provides critical funds to tribal nations to control noxious and invasive species. The impacts of invasive species have a particularly disproportionate impact upon tribal nations because such species affect plants, animals, and other wildlife that are essential to tribal citizens for sustenance, medicines, ceremonies, cultural sustainability, and economic health.

This BIA program is the only funding stream designated to address invasive species on tribal trust lands. In contrast, DOI spends considerably more each year to address invasive species on non-tribal lands.<sup>257</sup> The BIA program is a critical element of the Department's Invasive Species Crosscut Initiative, since tribal trust lands are often contiguous to other federal lands.

In light of the disproportionate impacts invasive species have on tribal nations, the significant disparity in funding between non-tribal and tribal land under DOI's jurisdiction, and the fact that tribal lands are often adjacent to other DOI-managed lands, an increase to \$12 million in BIA's Invasive Species Program for FY 2022 is an equitable and reasonable request.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Fish and Wildlife Service

- *Provide \$12 million for the Tribal Wildlife Grants Program*

Of the \$72.3 million enacted level for State and Tribal Wildlife Grants (TWG) in FY 2021 to help conserve and recover imperiled fish and wildlife, only \$6 million was dedicated to competitive grants for tribal nations.<sup>258</sup> The TWG program was originally established because tribal nations were excluded from an equitable apportionment under the Federal Aid in Sport Fish Act and Wildlife Restoration Act. These acts deliver more than \$1 billion each year in conservation funding to states, territories, and the District of Columbia.<sup>259</sup> Historically, the funding level for TWG has been set far too low to adjust for this inequity. Since FY 2010, TWG funding has declined nearly 50 percent. Since the program's inception over 20 years ago, tribal nations on average have received only \$6 million per year. This is only a slight increase from the \$5 million appropriated for the program in 2002 and in spite of high demand where only about 25 percent of tribal applicants receive funding under this grant.<sup>260</sup> TWG will be a key program in the coming decades as tribal nations address fish and wildlife conservation and climate change influences on natural resources. Accordingly, tribal nations request an increased appropriation of at least \$12 million



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## DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC AGENCY

### Commerce, Justice, Science, and Related Agencies Appropriations Bill

#### Pacific Coastal Salmon Recovery Fund

- *Provide \$110 million to the Pacific Coastal Salmon Recovery Fund (PCSRF)*

The PCSRF addresses watershed restoration and salmon recovery work for both Endangered Species Act listings and populations, and is critical to meeting trust obligations codified in treaties, laws, and other legal instruments regarding Indian fishing rights. The thousands of PCSRF projects that have been implemented throughout the region have made important contributions to improve the status of Endangered Species Act-listed species, prevent extinctions, and protect currently healthy populations.<sup>261</sup>

This fund created a groundbreaking multi-governmental collaborative project in salmon habitat restoration that was led by the Nisqually Tribe and recognized by President Obama with the Coastal America Partnership Award.<sup>262</sup> For FY 2020, \$65 million was appropriated for the PCSRF.<sup>263</sup> Tribal nations support an increase to \$110 million for FY 2022 as a strategic investment in a program that produces beneficial economic, ecological, social, and cultural results for tribal nations and their state and federal partners.

## DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC AGENCY

### Commerce, Justice, Science, and Related Agencies Appropriations Bill

#### National Oceanic and Atmospheric Administration

- *Provide \$25.9 million for Mitchell Act Hatchery Programs*

Mitchell Act hatchery production is intended to mitigate for fish and habitat loss caused by the federal hydropower dam system on the Columbia River.<sup>264</sup> Funding for these programs supports the operation and maintenance of hatcheries that release between 50 and 60 million juvenile salmon and steelhead in Oregon and Washington.<sup>265</sup> These programs provide fish production for tribal treaty and non-tribal commercial and recreational fisheries in the Columbia River, and also contribute to ocean fisheries from Northern California to Southeast Alaska.<sup>266</sup> Additionally, full production from the Mitchell Act hatcheries dampens the negative impacts of Canadian and Alaskan ocean fisheries on Washington fisheries under the terms of the Pacific Salmon Treaty Act of 1985.<sup>267</sup>

NCAI requests \$25.9 million for the Mitchell Act Hatchery Programs. FY 2021 appropriations provided a total of \$22 million.<sup>268</sup> The request for an additional \$3.7 million in Mitchell Act funds above the FY 2021 funding level is to ensure that mitigation hatcheries operate at a full production level to meet federal obligations. This program is funded through the Salmon Management Activities account.

## ENVIRONMENTAL PROTECTION AGENCY

### Interior, Environment, and Related Agencies Appropriations Bill

#### Environmental Protection Agency

- *Provide \$50 million for the Puget Sound Program*

The geographic-specific/ecosystem program in Puget Sound provides funding to tribal nations and tribal consortia and local communities to address environmental and human health risks and for tribal capacity building and project implementation. Tribal nations are seeking to restore funding to this program after steep reductions from \$50 million in 2010 to \$28 million in FY 2016 through FY 2019 with only a moderate increase to \$33.7 million in FY 2021.

## FORESTRY

Tribal nations are among the largest owners of forest lands in the United States. Of the approximately 56 million acres of federal Indian trust land, more than 18 million acres are forest lands. Of these, at least six million acres are designated commercial timberlands and approximately four million are designated as commercial woodlands.<sup>269</sup> Tribal forests support a myriad of activities, including subsistence hunting and fishing, as well as food and medicine gathering. Tribal forests also provide revenues for many tribal governments and employment opportunities for Indian people and rural communities.

To the detriment of tribal forest lands and economic development, since 1995 4.8 million acres of Indian forestlands have been burned by wildfire. In 2015 alone, 539,000 acres of Indian forest lands burned. In the same year on the Colville, Yakama, Nez Perce, Warm Springs, and Spokane reservations, 338,110 forest acres were damaged and tree mortality was approximately 1.2 billion board feet of tribal trust timber. Tribal nations suffered approximately \$521 million in lost revenue, and the Department of the Interior estimated the rehabilitation costs would exceed \$100 million.<sup>270</sup> The 2015 fires alone crippled tribal revenues, jobs, and economies for decades to come. More recent fires have only exacerbated this existing problem. Insufficient national fire preparedness and suppression resources, in conjunction with national wildfire suppression priorities to protect life and private property, contributed to the devastation of tribal forests. The assignment of fire crews, including reservation-based crews, to off-reservation fires threatening private structures enabled a wave of ignitions in tribal timber to go virtually unchecked, allowing the fires to expand and cause great damage.<sup>271</sup> Prompt post-fire rehabilitation is essential to get these tribal trust forests firmly on the long road to recovery, and emergency tribal governmental support is needed to maintain governmental functions and services.

### Key Recommendations

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs

- Provide \$140.8 million for BIA Forestry programs

The third, and most recent, decadal independent assessment of the status of Indian forests and forest management, the Indian Forest Management Assessment Team (IFMAT III) Report, documents that chronic underfunding and continued forestry staff shortfalls pose threats to tribal forests, decrease economic opportunities, and lead to resource losses due to wildland fire, insects, disease, and climate change. For example, forestry management on federal Indian trust land has at least a 750,000 acre backlog of lands requiring rehabilitation, reforestation, and thinning.<sup>272</sup> Additionally, federal funding for the management of tribal forests is only approximately one third of that provided for National Forests.<sup>273</sup> In light of this, at least an additional \$100 million would be required annually to enable Indian forestry and wildfire management to reach funding parity.<sup>274</sup>

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Staffing shortfalls further jeopardize tribal capacity to care for forest resources.<sup>275</sup> Finally, the Report calculates that nearly 800 additional positions in a wide variety of skill areas are needed to provide adequate staffing, and \$12.7 million is needed annually for recruitment, training, and retention.<sup>276</sup>

In spite of significant funding and staffing shortfalls, IFMAT III shows the resiliency of tribal nations to operate innovative and efficient forestry programs.<sup>277</sup> By combining sound business practices, traditional ecological knowledge, modern techniques, and an inherent respect for the land, many tribal nations engage in superb sustainable forestry management practices that are recognized nationally and internationally as innovative models.<sup>278</sup> In an era where federal funding commitments must demonstrate high return and accountability for administering trust programs, tribal forests and their management are strong investments.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Wildland Fire Management

- *Provide \$451 million for DOI Office of Wildland Fire Management's Preparedness Program*
- *Include language in appropriations bills making wildland fire preparedness and suppression for Indian trust forests the number two national priority, behind only threat to life as a priority and ahead of the protection of private property*
- *For the Preparedness Program, separate funding should exist for tribal Contract Support Costs (CSCs), with directions that DOI offices and agencies be transparent and consult with tribal nations on getting CSCs to them*
- *Provide Fuels Management funding at \$250 million*
- *In Fuels Management, allow funds for Reserved Treaty Rights Lands to be used on tribal lands. Intended to benefit tribal nations, these funds should be eligible for on-reservation use as well as within treaty ceded areas*

Due to a number of factors, including a history of natural fire suppression, diminished active management of forests and climate change, wildland fires on federal lands are significantly increasing in size, intensity, and cost. For example, in 2017, 9.8 million acres burned nationwide; in 2018 that number was approximately 8.8 million acres. Meanwhile, from January 1 to November 22, 2019, approximately 4.6 million acres burned, and in 2020, more than 5 million acres burned on the West Coast.<sup>279</sup> Program funds are often insufficient to cover these large and unpredictable costs. NCAI continues to support federal wildland fire costs exceeding the 10-year average of suppression costs be paid from federal disaster assistance accounts. Such authority would allow the large, unpredictable and often unbudgeted costs of fighting wildland fires to be treated the same as other natural disasters and would provide more budgetary stability to regular on-going federal forest management programs.

## U.S. DEPARTMENT OF AGRICULTURE

### Interior, Environment, and Related Agencies Appropriations Bill U.S. Forest Service

- *Encourage support for expanded Anchor Forest initiatives*
- *Make USFS implementation of the Tribal Forest Protection Act a priority*

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Tribal forests and forestry programs are working to embrace forest resource management on a more comprehensive scale. Tribal forests share thousands of miles of common boundaries with the U.S. Forest Service, in addition to extensive borders and watersheds with other forest owners and operators.<sup>280</sup> Tribal nations developed and are leading Anchor Forest pilot projects in Washington State and Idaho that seek to coordinate and stabilize long-term active forest management across the landscape and among a variety of neighboring landowners and infrastructure stakeholders.<sup>281</sup> Tribal nations, the BIA, U.S. Forest Service, state, and private stakeholders are all engaged, and there is interest in Anchor Forests from tribal nations and others across the United States.

Tribal nations that engage in timber harvesting are working to expand their participation in the management of neighboring at-risk federal forests through accelerated implementation of the Tribal Forest Protection Act (P.L. 108-278) (TFPA). Individual TFPA projects and Anchor Forest pilots involve non-tribal neighboring forests, and implementation relies largely upon support from sources other than the BIA. The BIA has contributed to these initiatives where and when it can, but with severe and chronic underfunding already constraining BIA Forestry on trust lands, other federal agencies with lands involved in TFPA and Anchor Forests need to better honor their own trust obligations with improved support of and engagement in TFPA and Anchor Forest projects.

## **U.S. DEPARTMENT OF AGRICULTURE**

### **Interior, Environment, and Related Agencies Appropriations Bill**

#### **U.S. Forest Service**

- *Provide additional funding to support P.L. 93-638 tribal self-governance contracts for demonstration projects for forestry management*

TFPA authorizes the Secretary of Agriculture and the Secretary of the Interior to enter into contracts or agreements with tribal nations to carry out tribally proposed projects on Forest Service or Bureau of Land Management-managed lands under the following criteria: (1) the proposed project must take place on federally managed land bordering or adjacent to Indian forest land or rangeland under tribal jurisdiction; (2) the conditions on the federally managed land must pose a risk of fire, disease, or other threat to the neighboring Indian forest land or rangeland (or the tribal community), or the federally managed land must be in need of restoration; (3) the proposed project must not be part of a conflicting arrangement; and (4) the federally managed land presents a feature or circumstance unique to the proposing tribal nation (such as a treaty right or biological, archaeological, historical, or cultural circumstances).<sup>282</sup>

The 2018 Farm Bill contains an important expansion of the P.L. 93-638 contracting authority to USDA Forest Service, allowing the Secretary of the Interior and the Secretary of Agriculture to carry out a “demonstration project” where tribal nations or tribal organizations may perform administrative, management, and other functions of TFPA programs through P.L. 93-638 contracts.<sup>283</sup> Overall, the extension of P.L. 93-638 contracting authority to tribal forestry is noteworthy because forests and woodlands comprise 18.6 million acres (approximately one-third) of the total 56 million acres of tribal trust land.<sup>284</sup> Previously, tribal nations only had the ability to enter into cooperative management agreements with USDA Forest Service. The 2018 Farm Bill’s authorization of this demonstration project is the first step towards a more fully realized self-governance authority for tribal nations in the area of federal forestry programs and land management.



## ENERGY

Tribal energy resources are vast, largely untapped, and critical to America's efforts to achieve energy security and independence, reduce greenhouse gases, and promote economic development for both Indian Country and the United States as a whole.<sup>285</sup> For example, in 2018 the Office of Indian Energy reported that the utility-scale renewable energy potential on tribal lands is 6.5 times the national potential.<sup>286</sup> As part of a nationwide commitment to a diversified approach to energy development, energy infrastructure is integral to many tribal nations' efforts to create jobs, infrastructure, and improve lives of their citizens. DOI estimates that undeveloped traditional energy reserves on Indian lands could generate up to \$1 trillion for tribal nations and surrounding communities, most of which are located in rural areas. In 2014, DOI reported that Indian energy resources provided over \$1 billion in revenue to tribal nations and individual Indian resource owners.<sup>287</sup>

Even with this substantial potential, there are few commercial-scale energy projects operating in Indian Country. Tribal nations boast nearly a quarter of the nation's on-shore oil and gas reserves and developable resources, one-third of the nation's western low-sulfur coal,<sup>288</sup> almost 3.5 percent of the nation's wind energy, and approximately five percent of the nation's total solar energy potential.<sup>289</sup> Despite the energy potential in Indian Country, tribal nations face many challenges, including unique federal laws, regulations, and policies that apply to energy development on tribal lands. Additionally, many tribal nations are just beginning to construct adequate physical infrastructure, gain access to capital, and engage in workforce training specific to energy development. Given the historic, social, and economic impediments tribal nations and citizens face, and the relatively short time tribal nations have been involved in energy development, their successes are clear indicators of future potential.

Investing in and empowering tribal nations provides strong returns and outcomes for tribal and rural communities. For example, between 2010 and 2018, the Department of Energy's (DOE) Office of Indian Energy Policy and Programs invested more than \$70 million in more than 170 tribal energy projects valued at nearly \$154 million.<sup>290</sup> This investment is already paying significant dividends. The Office of Indian Energy Policy and Programs reports that these projects provide a collective tribal savings of more than \$14 million each year.<sup>291</sup>

Additionally, the National Renewable Energy Lab (NREL DOE) reports that the technical potential of tribal lands is about six percent of the total national technical generation potential.<sup>292</sup> Tribal nations need access to robust capacity-building support and technical assistance programs. These programs are necessary to advance the 150-plus tribal energy projects that are currently proceeding through the development, financing, and construction stages.<sup>293</sup> There are three key components to future tribal success in this arena. First, economic barriers to growth must be removed. Specifically, NCAI requests that where possible, Congress reduce or completely eliminate the 50 percent cost-sharing requirement that burden tribal nations. Second, tribal nations need continued commitment to technical and financial assistance programs that not only support infrastructure development but also the capacity of tribal programs and offices to carry out their responsibilities, including addressing staffing issues. Lastly, additional support is needed to bolster the tribal workforce in the energy sector and to retain more liaison employees within DOE.

This FY 2022 budget request identifies energy programs providing innovative and important tools to support existing initiatives and facilitate new investment in tribal energy development. This budget request seeks to meet critical analytical and planning, capacity-building, and resource-management needs of tribal nations. Continued focus on developing tribal energy resources will contribute significantly to national energy security, clean energy projects that reduce greenhouse gas emissions, and tribal economic development and job creation.

### Key Recommendations

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Labor, HHS, Education, and Related Agencies Appropriations Bill

#### Health and Human Services

- Provide \$4.7 billion for Low Income Home Energy Assistance Program (LIHEAP), with \$100 million allocated to tribal nations and tribal organizations

LIHEAP is intended to assure that low-income families will not be forced to choose between food and heat. With high unemployment and longstanding barriers to economic security, much of Indian Country cannot afford the rising costs of heat and power. Alaska Native villages are experiencing some of the highest costs for energy, with fuel prices recently reaching over \$7 per gallon.<sup>294</sup> FY 2021 LIHEAP appropriations are \$3.75 billion and HHS has released approximately \$3.36 billion of FY 2021 block grant funding to LIHEAP grantees, with \$38.2 million allocated to tribal nations and tribal organizations.<sup>295</sup> This funding is well below the FY 2011 levels of \$4.7 billion, with \$51 million to tribal nations.<sup>296</sup> Full funding is crucial to address the extreme need for heating assistance in Indian Country. Accordingly, funding for FY 2022 should be \$100 million for tribal nations to account for current needs and inflation.

## DEPARTMENT OF ENERGY

### Energy and Water Development Appropriations Bill

#### Department of Energy

- Provide \$30 million for the Office of Indian Energy Policy and Programs



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The Energy Policy Act of 2005 (P.L. 109-58) established the Office of Indian Energy Policy and Programs (OIEPP). Since its inception, OIEPP has established new programs and aligned efforts across DOE in close consultation with tribal nations in response to priorities identified by tribal nations and the DOE Indian Energy Working Group. OIEPP provides technical assistance, direct and remote education, policy research and analysis, and financial assistance to tribal nations, Alaska Native Village and Regional corporations, and Tribal Energy Resource Development Organizations.

The resources that OIEPP provides assist tribal nations with many aspects of energy development, including planning, project development, transmission interconnection, utility formation, and intertribal coordination. Providing \$30 million in funding to the Office of Indian Energy Policy and Programs for FY 2022 will help tribal nations overcome the unique obstacles that hinder energy development in Indian Country.

## **DEPARTMENT OF ENERGY**

### **Energy and Water Development Appropriations Bill**

#### **Department of Energy**

- *Provide \$4.5 million for the Tribal Energy Loan Guarantee Program (TELGP)*

The Energy Policy Act of 2005 (Section 2602(c))<sup>297</sup> authorized DOE to establish the TELGP and create related loan guarantee regulations. FY 2017 appropriations provided \$9 million to establish the program, with \$8.5 million for the credit subsidy cost and \$500,000 for administrative expenses.<sup>298</sup> FY 2020 and 2021 appropriations provided \$2 million each year for administrative costs.<sup>299</sup> The funds must be used to support the development or expansion of generation projects that employ commercially proven and available renewable energy technologies. In light of Indian Country's ongoing energy needs, tribal nations urge Congress to provide an additional \$2.5 million for TELGP credit subsidization and continue to fund administrative costs at \$2 million. Lastly, Congress should permit 100 percent loan guarantees and waive non-statutory program requirements that create barriers for small-scale, community-based projects.<sup>300</sup>



## HOUSING

Housing infrastructure in Indian Country continues to lag behind the rest of the United States.<sup>301</sup> Over 70 percent of existing housing stock in tribal communities is in need of upgrades and repairs, many of them extensive.<sup>302</sup> In 2017, The U.S. Department of Housing and Urban Development (HUD) reported that “the lack of housing and infrastructure in Indian Country is severe and widespread, and far exceeds the funding currently provided to tribes.”<sup>303</sup> The lack of affordable housing contributes to homelessness and overcrowding in Native households and in tribal communities.<sup>304</sup> Fifteen years after the U.S. Commission on Civil Rights’ initial 2003 report on federal funding and unmet need in Indian Country, the Commission found that the housing crisis in Indian Country has deteriorated even further.<sup>305</sup> These findings underscore the need for robust funding increases through flexible programs that allow tribal nations to address the diverse and extensive housing infrastructure and financing needs of their communities.

The Native American Housing Assistance and Self-Determination Act (P.L. 104-330) (NAHASDA), first enacted in 1996, was a major authorization for tribal nations to self-determine their housing programs. It gave flexibility for tribal nations to develop, construct and maintain housing for their members, transforming how federal housing programs addressed housing needs in tribal communities. NAHASDA consolidated existing housing funds into a single block grant – the Indian Housing Block Grant (IHBG) – resulting in tens of thousands additional housing units being constructed, as well as increased tribal capacity to address related infrastructure and economic development challenges. The IHBG is a formula-based grant that provides certainty and security for long-term housing and community development. Unfortunately, IHBG has been mostly level-funded for the past 20 years, failing to even keep pace with inflation while housing needs continue to increase.<sup>306</sup> Funding is vital for the IHBG; Indian Community Development Block Grant (ICDBG); Sections 184 and 184A Guaranteed Loan Programs; Title VI Guaranteed Loan Program; NAHASDA’s Training and Technical Assistance Funding; and Title VIII Housing Assistance for Native Hawaiians.

While IHBG is the largest single source of federal funding for housing development and assistance, programs promoting housing development, maintenance, and rehabilitation in tribal communities are also found at the U.S. Department of Veterans Affairs, U.S. Department of Agriculture, and U.S. Department of the Interior.<sup>307</sup>

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## Key Recommendations

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Transportation, HUD Appropriations Bill HUD, Native American Programs

- *Provide \$966 million for the Indian Housing Block Grant program*

IHBG funding is important for housing development, construction, infrastructure, maintenance, and repair in tribal communities. These funds also assist tribal nations and tribally designated housing entities (TDHEs) to leverage other funds, such as low-income housing tax credits.<sup>308</sup> However, the IHBG has seen mostly level funding over the past two decades.<sup>309</sup> In 1998, \$600 million was appropriated to the IHBG.<sup>310</sup> In FY 2021, \$647 million was provided as formula grants and \$100 million was provided as competitive grants.<sup>311</sup> The IHBG would receive nearly \$1 billion if funding had kept pace with inflation since its first year to receive appropriations in 1998.<sup>312</sup> At current levels, tribal nations' purchasing power with IHBG funds is less than it was 20 years ago, while reports continue to highlight the deteriorating housing conditions in Indian Country.<sup>313</sup>

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Transportation, HUD Appropriations Bill HUD, Native American Programs

- *Provide \$100 million for the Indian Community Development Block Grant (ICDBG) program*

ICDBG funding provides tribal nations with the resources to improve infrastructure in their communities, which promotes economic and community development. ICDBG funds provide key support to tribal economies and community development efforts that enable tribal nations to increase the variety of commercial, industrial, and agricultural projects on their lands and in their communities.

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Transportation, HUD Appropriations Bill HUD, Native American Programs

- *Provide \$2 million for the NAHASDA Title VI Loan Guarantee Program*

Title VI of NAHASDA assists IHBG recipients to secure financing from private lending institutions at favorable rates with the assistance of a federal guarantee. Eligible activities under Title VI assistance include construction of new housing, rehabilitation of housing, building certain infrastructure, constructing community facilities, acquiring land to be used for housing, preparing architectural and engineering plans, and funding certain financing costs.<sup>314</sup> This program provides favorable lending rates that allow recipients to better leverage limited IHBG funds for housing development.

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Transportation, HUD Appropriations Bill

#### HUD, Native American Programs

- *Provide \$10 million for the Section 184 Loan Guarantee Program*

The Section 184 Loan Guarantee Program provides a 100 percent guarantee to private lenders in cases of home loan default. Tribal nations have successfully participated in this program with an extremely low default rate.<sup>315</sup> Using Section 184, tribal nations and citizens can purchase an existing home, obtain single-close construction loans for stick-built or manufactured homes on a permanent foundation, obtain rehabilitation loans, or obtain both a purchase and rehabilitation loan.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Transportation, HUD Appropriation Bill

#### HUD, Tenant-Based Rental Assistance

- *Provide \$7 million for the Tribal HUD-Veterans Affairs Supportive Housing (HUD-VASH) Program*

The HUD-Veterans Affairs Supportive Housing (HUD-VASH) Program has been a national success because of its combination of rental assistance, case management, and clinical services for at-risk and homeless veterans. Unfortunately, this program is not fully available to Native veterans living on tribal lands. Prior to the creation of a Tribal HUD-VASH pilot program, tribal nations and TDHEs were not allowed to administer HUD-VASH vouchers, which resulted in greater hardship for Native veterans experiencing or at risk of experiencing homelessness. The Tribal HUD-VASH program seeks parity in treatment of veterans by allowing this successful program to be made available to Native veterans living on tribal lands. In FY 2021, Congress included up to \$5 million for the Tribal HUD-VASH program, as part of renewal of tenant-based vouchers.<sup>316</sup> NCAI joins the National American Indian Housing Council in calling on Congress to restore funding to its initial levels and allow more tribal nations to participate in the program.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Transportation, HUD Appropriations Bill

#### HUD, Native American Programs

- *Provide \$7 million for NAHASDA Training and Technical Assistance*

Building tribal capacity is essential for tribal nations to enhance their housing and community development projects. The training and technical assistance provided through NAHASDA to address Native housing needs is an indispensable resource for tribal nations and TDHEs to run their programs more efficiently and in compliance with applicable laws and HUD regulations. Training and technical assistance includes developing model policies that save tribal nations tens of thousands of dollars each year by sharing information about successful efforts undertaken by other tribal nations.

Each year, hundreds of tribal housing professionals attend training courses to enhance their management skills and broaden their knowledge of tribal housing operations and management. Congress must continue to provide this funding for training and technical assistance because it improves program performance and outcomes, increasing program efficiency and value per dollar on investment.

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## DEPARTMENT OF AGRICULTURE

### Agriculture Appropriations Bill

#### Rural Development, Rural Housing and Community Facilities Programs

- *Provide a \$50 million tribal set-aside from the Rural Development 502 Direct Loan Program to establish a relending program for Indian Country that is national in scope*

U.S. Department of Agriculture (USDA) Rural Development (RD) has limited staff resources to provide Single Family Housing Direct Loans on tribal land. In FY 2020, of the 5,821 direct loans made nationally by USDA RD, just 110 were issued to Native American borrowers, and only seven of those were for homes on tribal lands.

In 2018, a 502 Direct Loan relending pilot program was announced, providing \$2 million to two Native Community Development Financial Institutions (CDFIs) to relend to eligible Native families in North and South Dakota.<sup>317</sup> The demonstration program was highly successful, deploying 17 loans mortgage loans in less than a year on two South Dakota Indian reservations – Cheyenne River Indian Reservation and Pine Ridge Indian Reservation – nearly twice the amount deployed in the previous decade – with an additional pipeline of demand from 29 families for \$3.6 million in mortgage financing on those two reservations alone.

This pilot program has been successful, in part, due to Native CDFIs' experience operating on tribal lands. In addition, Native CDFIs provide extensive financial and homebuyer education to help their clients become self-sufficient private homeowners. The proposed expanded relending pilot program would increase the flow of mortgage capital to Indian Country by allowing Native CDFIs to be eligible borrowers under the 502 Direct Loan Program and enable them to relend to eligible families for the construction, acquisition, and rehabilitation of affordable housing. By expanding and making this pilot program permanent, USDA-RD will be able to partner with other Native CDFIs nationwide to deploy much-needed mortgage capital throughout Indian Country.

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill

#### Bureau of Indian Affairs

- *Provide \$23 million for the Housing Improvement Program (HIP) (TPA)*

HIP is a home repair, renovation, replacement, and new housing grant program administered by the BIA and federally recognized tribal nations for American Indians and Alaska Native individuals and families who have no immediate resource for standard housing. In 2015, the BIA updated its regulations and expanded the eligible use of HIP funds to include down payment assistance for low-income working families seeking to become private homeowners.<sup>318</sup> This new activity expands homeownership opportunities for Native families and allows leveraging of federal housing funds to increase the number of families served and projects funded. To maximize this opportunity to improve self-sufficiency through private homeownership, the HIP program should be funded at \$23 million.

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Transportation, HUD Appropriations Bill

- *Provide \$20 million for the Native Hawaiian Housing Block Grant*
- *Provide \$1 million for the Section 184A Loan Guarantee Program*

Since 2000, Native Hawaiian Housing Block Grant (NHHBG) funding has been the primary source for housing assistance for Native Hawaiians eligible to reside on Hawaiian Home Lands. The Department of Hawaiian Home Lands, the sole recipient of NHHBG funds, uses these funds to increase the supply of affordable housing units or rehabilitate existing units to relieve some of the overcrowding pressures and substandard living environments experienced in many low-income Native Hawaiian households.

## DEPARTMENT OF VETERANS AFFAIRS

### Military Construction, Veterans Affairs, and Related Agencies Appropriations Bill

#### Veterans Benefit Administration

#### Native American Direct Loan Program

- *Authorize the Secretary of Veterans Affairs (VA) to designate \$1 million of the VA's program income generated from funding fee proceeds to compensate third parties to provide loan packaging and homebuyer education to Native veteran homebuyers*
- *Authorize the VA Secretary to designate \$10 million of existing program allocation from the Native American Direct Loan (NADL) program to establish a Native Veterans Home Loan Relending program that would allow Native CDFIs to obtain intermediary loans through the NADL program and relend to qualified Native American veterans*

The NADL program is a home loan program authorized by 38 U.S.C. § 3761 to provide direct loans to Native veterans living on trust lands. The loans are available to purchase, construct, or improve homes to be occupied as veteran residences, or to refinance a loan previously made under this program to lower the interest rate. The program began as a pilot program in 1993 and was made permanent by P.L. 109-233, the Veterans Housing Opportunity and Benefits Act of 2006.

However, the VA lacks adequate staff and resources to provide the required level of technical assistance to help qualified Native veterans to fully access this VA benefit. According to a 2019 study conducted by the South Dakota Native Homeownership Coalition, 75 percent of Native veterans interested in purchasing a home reported having no understanding or minimal understanding of the NADL program.<sup>319</sup> In addition, 62 percent of those respondents were not even aware that the NADL program existed.<sup>320</sup>

By providing the appropriate authority to access a budget-neutral source of funding, the Secretary can follow the practice of other federal loan programs to partner with and compensate third parties to provide homebuyer education, loan packaging, and other homebuyer readiness services. In addition, by setting aside \$10 million of existing program allocation, the VA can pilot a relending program that would allow Native CDFIs, which are more familiar with Native communities and the mortgage lending process on tribal trust lands, to deploy this much needed mortgage capital to qualified Native veteran homebuyers.





## TRANSPORTATION

The economy and wellbeing of Indian Country are dependent upon transportation infrastructure. Without safe and well-maintained roads, bridges, and adequate public transportation, tribal nations are unable to adequately provide essential services to their citizens. Tribal nations construct, improve, and maintain transportation facilities that are used by tribal citizens and non-tribal citizens alike and require funding to promote public safety, economic development, and community wellbeing.

There are approximately 160,000 miles of public roads in the National Tribal Transportation Facilities Inventory,<sup>321</sup> placing sole or shared jurisdictional control over the construction and maintenance of these facilities with tribal governments. These roads are often the primary means of access to Native and non-Native residents and visitors alike. The lack of sufficient transportation infrastructure throughout Indian Country hampers economic development opportunities for tribal nations and their citizens and increases risks for all motorists who traverse these roads.

The Fixing America's Surface Transportation (P.L. 114-94) (FAST) Act authorizes the Tribal Transportation Program (TTP) and the Tribal Transit Program, along with competitive grant programs that are offered to tribal and non-tribal applicants. The FAST Act is set to expire at the end of FY 2021, after a one year extension of the FAST Act at FY 2020 amounts was included in the Continuing Appropriations Act, 2021 and Other Extensions Act.<sup>322</sup> Reauthorized and subsequently appropriated amounts for tribal surface transportation programs must reflect the overall condition of roads throughout Indian Country, growing backlogs of deferred road maintenance, increasing risk to motorists, and the trust and treaty obligations of the federal government. The TTP is the largest single source of federal funding to tribal nations for surface transportation infrastructure. TTP funds can be used for certain construction, maintenance, planning, and other limited non-construction activities such as transportation safety or transit activities. TTP saw modest increases under the FAST Act; however, the backlog of deferred maintenance continues to grow, demonstrating the inadequacy of funding for tribal transportation programs as a whole.<sup>323</sup>

Another federal transportation program that is vital to infrastructure in Indian Country is the BIA Road Maintenance Program. This program is funded and authorized under the Department of the Interior and is separate from the Department

of Transportation appropriation. The BIA Road Maintenance Program is critical to BIA-owned roads and facilities. Currently, BIA is responsible for maintaining approximately 29,000 miles of roads in Indian Country including 900 bridges.<sup>324</sup> The BIA Road Maintenance Program received \$36.7 million in FY 2021,<sup>325</sup> while deferred maintenance backlog costs continue to rise.

The integrity of the transportation infrastructure systems in Indian Country includes BIA-owned roads and facilities that have a direct impact on tribal and surrounding non-tribal communities. In 2018, in coordination with the Tribal-Interior Budget Council, the BIA developed and conducted a road maintenance survey intended to develop data on road maintenance budget needs.<sup>326</sup> The road maintenance survey included both tribal and BIA respondents. The survey found, in part, that the estimated value of deferred road maintenance for all respondents was \$498 million.<sup>327</sup> This finding begins to quantify the chronic underfunding of tribal transportation programs that led to such a staggering maintenance backlog statistic, and demonstrates the need for a robust funding solution.

It is imperative that federal funding levels for the TTP, Tribal Technical Assistance Program (TTAP), Tribal Transit Program, and BIA Road Maintenance Program are increased. For many tribal governments, this federal funding is the only funding source to improve or maintain road systems.

### *Key Recommendations*

#### **DEPARTMENT OF TRANSPORTATION**

##### **Transportation, HUD Appropriations Bill**

##### **Tribal Transportation Program**

- *Provide \$1 billion for the Tribal Transportation Program*

TTP oversees over 160,000 miles of roads and trails in Indian Country, which are owned by the BIA, tribal nations, states, and counties, in order to provide safe and adequate transportation systems. These roadways and trails serve as the primary transportation thoroughfare for residents of and visitors to American Indian and Alaska Native communities. TTP is funded from the Highway Trust Fund and allocated through a statutory formula.<sup>328</sup>

#### **DEPARTMENT OF TRANSPORTATION**

##### **Transportation, HUD Appropriations Bill**

##### **Tribal Technical Assistance Programs**

- *Provide \$5 million for Tribal Technical Assistance Programs*

TTAP is the only program providing technical assistance and training to tribal nations to support the professional development of tribal transportation workforces. In 2016, the Federal Highway Administration (FHWA) announced the restructuring of TTAP, which eliminated the seven TTAPs across the country that served all federally recognized tribal nations. In December 2017, FHWA announced a two-year pilot program and centralized TTAP at the University of Virginia's Center for Transportation Studies (CTS) in Virginia. The entire restructuring proceeded without proper tribal consultation. NCAI is deeply concerned about the restructuring of TTAP without tribal input. NCAI requests \$5 million in TTAP funding to

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improve technical expertise for tribal transportation officials and to ensure proper tribal consultation is carried out by FHWA on any federal action impacting TTAP.

## **DEPARTMENT OF TRANSPORTATION**

### **Transportation, HUD Appropriations Bill Tribal Transit Program**

- *Provide \$75 million for Tribal Transit Program Formula-Based Funding*

The Public Transportation on Indian Reservations (49 U.S.C. § 5311(c)(1)) (also known as the Tribal Transit Program) is a program that provides tribal nations with funding for capital, operating, planning, and administrative expenses to meet public transportation needs in tribal communities. Funding for the Tribal Transit Program is offered through both formula-based and competitive grant funding models. Competitive grant models are cost prohibitive for certain tribal nations to apply for and introduce uncertainty into any long-term public transportation planning that relies on such funds. The result is that those communities that need access the most are effectively barred from the competitive grant portion of the transit program. Congress should provide increases to the Tribal Transit Program under the formula-based grant model found at 49 U.S.C. § 5311(c)(1)(B).

## **DEPARTMENT OF TRANSPORTATION**

### **Transportation, HUD Appropriations Bill Tribal High Priority Projects Program**

- *Provide \$50 million for the Tribal High Priority Projects (THPP) Program*

In the FAST Act, the THPP Program was not authorized. However, H.R. 2 and S. 2302 in the 116th Congress included authorized amounts for a THPP program. Unfortunately, no surface transportation reauthorization bill was passed during the 116th Congress. This critical program is needed for the safety and welfare of tribal and surrounding non-tribal communities. THPP is crucial for tribal nations to support completion of their top-priority projects, which often include reconstruction efforts as a result of an emergency or natural disaster.

## **DEPARTMENT OF THE INTERIOR**

### **Interior, Environment, and Related Agencies Appropriations Bill Bureau of Indian Affairs**

- *Provide \$75 million for the Road Maintenance (TPA) Program*

Currently, BIA has a deferred maintenance backlog in excess of \$300 million to maintain BIA-owned roads and bridges to an adequate standard.<sup>329</sup> As part of a 2018 survey conducted by the BIA, the deferred maintenance backlog for all tribal and BIA respondents was estimated at \$498 million. For FY 2021, \$36.79 million was appropriated for BIA Road Maintenance,<sup>330</sup> and has remained steadily around this amount for prior fiscal years; meanwhile, the road maintenance need continues to increase. Additional funding for the BIA Road Maintenance program is needed to begin to address public safety and commercial activity concerns that affect tribal communities and surrounding areas.



## HISTORIC & CULTURAL PRESERVATION

The protection and preservation of Native cultures and historic and sacred sites is a priority for tribal nations and relies on a complex federal statutory and regulatory system. Success in navigating these complex structures has resulted in the repatriation of cultural items, guidance regarding possession of eagle feathers, and protection of and increased tribal access to sacred places for religious and spiritual purposes.<sup>331</sup> This success is due in no small part to the efforts of Tribal Historic Preservation Officers (THPOs) and other tribal administrators that take on these responsibilities absent formal Tribal Historic Preservation Offices. THPOs and other tribal heritage preservation professionals act as an essential bridge between tribal cultures, ecological knowledge, and tribal sciences and the actions of federal agencies, private actors, and even international institutions. Increasing funding provided to these tribal historic preservation programs not only contributes to capacity building efforts, but also to the long-term health and wellbeing of tribal communities.<sup>332</sup>

### *Key Recommendations*

#### **DEPARTMENT OF THE INTERIOR**

##### **Interior, Environment, and Related Agencies Appropriations Bill National Park Service**

- *Provide \$20 million for the Tribal Historic Preservation Officer (THPO) Program*

Created in 1996, the THPO program has grown from 12 participating tribal nations to approximately 198 tribal programs.<sup>333</sup> THPOs' main responsibilities are to assist with federal agency compliance with the National Historic Preservation Act (NHPA). The program is operated by the National Park Service and funded through the Historic Preservation Fund.<sup>334</sup> THPOs provide essential technical and cultural expertise for the preservation and protection of a variety of tangible and intangible cultural resources of their respective tribal nations. They are active in recording oral histories, preserving and revitalizing Native

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languages, seeking the return of Native ancestral and sacred objects, and developing mitigation plans for impacted cultural resources. THPOs also have a critical role in the government-to-government relationship expressed through the unique Section 106 consultation process of the NHPA, which is designed to ensure the sanctity and sustainability of tribal sacred places, objects, and knowledge.<sup>335</sup>

Providing \$20 million for THPOs will ensure that funding from the Historic Preservation Fund keeps pace with the cultural preservation needs of the country's 574 federally recognized tribal nations.<sup>336</sup> This represents a modest increase in funding that still falls short of actual needs. Although the average annual funding has risen at that same proportional rate as the increase in the number of THPOs over time, the average apportionment to each THPO has slightly decreased since the program's founding, except for a one-time increase in funding.<sup>337</sup>

## DEPARTMENT OF THE INTERIOR

### Interior, Environment, and Related Agencies Appropriations Bill Native American Graves Protection and Repatriation Act

- *Provide \$4 million for Native American Graves Protection and Repatriation Act (P.L. 101-601) (NAGPRA) grants*

The NAGPRA Section 10 Program authorizes the Secretary of the Interior to award funds to tribal nations, Native Hawaiian Organizations, and museums to implement provisions of the Act, including the repatriation of human remains and other cultural items. Starting in FY 2014, Section 10 funding was reduced by 25 percent and funding for administrative costs was increased by a corresponding amount. This practice has diverted critical funds from tribal nations and their statutory and cultural responsibilities to return cultural heritage and patrimony to their homelands in favor of government overhead. A tribal priority should be established under Section 10 to ensure that grant funding is awarded to tribal nations. Additionally, pursuant to 25 U.S.C. § 3003(b)(2), Congress should ensure that no Section 10 funding is used to initiate new scientific studies or other means of acquiring or preserving additional scientific information from Native American human remains or associated funerary objects. A separate program should be funded for the repatriation of culturally unidentifiable remains to further support tribal repatriation efforts. Because ancestral remains or items are at times initially listed as culturally unidentified, it often takes more resources to decipher inadequate or incomplete historic records to correctly determine the cultural affiliation of an ancestor or item and ensure it is returned to its proper home pursuant to 43 C.F.R. § 10.11. The National Park Service should restore funding for grants and staff in the NAGPRA program.

- *Provide 10 percent increase for investigations into the failure of museums or other institutions to comply with NAGPRA, and create a line item for investigations of complaints brought by tribal nations against museums or other institutions*

The failure of some museums to comply with NAGPRA has been an ongoing issue that inhibits and delays tribal repatriation efforts. Resources for law enforcement efforts have been sporadic and resulted in a backlog of uninvestigated allegations.<sup>339</sup> Providing a 10 percent increase for these investigations and a tribal-specific line item will assist the Department of the Interior's efforts to respond in a timely manner. Such directives will further ensure the successful implementation of NAGPRA.

- *Provide increased funding to federal agencies to carry out their NAGPRA responsibilities*

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While tribal nations and museums are eligible for grant assistance to carry out their NAGPRA-based responsibilities, federal agencies lack a similar funding source. In the most recent GAO report exploring federal agency compliance with NAGPRA, agencies identified a lack of funding as one of the key reasons for their failure to fully comply with the requirements of NAGPRA.<sup>340</sup> Congress should provide federal agencies with additional resources so they can carry out their statutory obligations.





## COVID-19 SUPPLEMENTAL APPROPRIATIONS

Tribal nations are on the frontlines of this pandemic and have struggled to protect the health, safety, and welfare of their communities as the number of coronavirus (COVID-19) cases continue to rise in Indian Country. As of January 21, 2021, there have been 171,106 positive COVID Cases reported from IHS, tribal, and urban Indian organization facilities.<sup>341</sup> According to the Centers for Disease Control and Prevention (CDC), as of January 16, 2021 non-Hispanic AI/AN COVID-19 deaths are at 3,892, which is 1.1 percent of all U.S. deaths, compared to being 0.4 percent of the weighted distribution of the U.S. population.<sup>342</sup>

In addition to the devastating toll this pandemic has had on our tribal citizens' health, it has also had severe economic impacts on tribal governments. To date, tribal governments are projected to lose over \$40 billion in critical government revenue due to the COVID-19 pandemic. This loss has impaired tribal nations' ability to deliver government services and retain employment.

Tribal nations' vulnerability to COVID-19 is a direct result of the chronic underfunding of the federal government's trust and treaty responsibilities to tribal nations. Despite how COVID-19 has disproportionately impacted Indian Country, tribal nations only received .5 percent of the \$2 trillion in aid provided in the Coronavirus Aid, Relief, and Economic Security (CARES) Act; and only .4 percent of the \$900 billion in COVID-19 aid provided in the Consolidated Appropriations Act (H.R. 133).

Early on in the wake of fast-moving policy advocacy on Capitol Hill to address the COVID-19 pandemic, NCAI took on the role of clearinghouse for COVID-19 tribal priorities and established four working groups to produce advocacy materials and organize and advance advocacy efforts. NCAI staff facilitated these working groups, whose membership exceeded 300 individuals and included tribal leaders, partner organizations, and tribal advocates to develop and advocate for Indian Country's top policy priorities for addressing COVID-19. These working groups set various priorities and submitted them to Congressional leadership in Spring 2020 and received bipartisan support for those requests.<sup>343</sup> Additionally, in January of 2021,

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NCAI created a COVID-19 Task Force led by elected tribal leaders to ensure that requests were being made that accurately reflected the needs of elected tribal officials. As we begin the 117th Congress, tribal nations, tribal organizations, and tribal advocates are in the process of reassessing the supplemental appropriations needs of tribal nations and will communicate those updates to both Congress and the Administration.

# Table of References

## (by Appropriations Bill)

| Appropriations Bill      | Agency          | Program   | NCAI FY 2022 Request  |
|--------------------------|-----------------|---|---|
| All Appropriations Bills | Government-wide |   | Provide support to tribal governments through recurring, base funding instead of through competitive grants                         |
| All Appropriations Bills | Government-wide | Indian Affairs  | Allow funding from departments and agencies outside of Indian Affairs to be administered through existing ISDEAA funding agreements |
| Authorization            | DOI             | Bureau of Reclamation, Reclamation Water Settlement Fund                                | Permanently Reauthorize   |
| Agriculture              | USDA            | 1994 Institutions Extension Program (NIFA)  | \$10 million  |
| Agriculture              | USDA            | 1994 Institutions Research Program  | \$5.8 million   |
| Agriculture              | USDA            | 1994 Institutions Educational Equity Grants   | \$6 million   |
| Agriculture              | USDA            | Native American Endowment Account (Corpus Payment)                                      | \$17 million  |
| Agriculture              | USDA            | TCU Essential Community Facilities Program  | \$10 million  |
| Agriculture              | USDA            | Office of Tribal Relations  | \$1.5 million   |
| Agriculture              | USDA            | Rural Development   | \$3.4 billion   |
| Agriculture              | USDA            | Rural Utilities Service   | \$980.624 million   |
| Agriculture              | USDA            | Rural Housing and Community Facilities Programs   | \$29 billion  |
| Agriculture              | USDA            | Natural Resources Conservation Service (NRCS), Environmental Quality Incentives Program | \$1.75 billion  |
| Agriculture              | USDA            | NRCS, Conservation Stewardship Program  | \$725 million   |
| Agriculture              | USDA            | Federally Recognized Tribal Extension Program   | \$30 million  |

|                            |      |   |  |
|----------------------------|------|---|--|
| Agriculture                | USDA | Food Distribution Program on Indian Reservations (FDPIR)  | \$200 million  |
| Agriculture                | USDA | FDPIR, Traditional Foods Market Development   | \$5 million  |
| Agriculture                | USDA | FDPIR, Demonstration Project for Tribal Organizations   | \$5 million  |
| Agriculture                | USDA | Industrial Hemp Production, Regulation, and Research  | Amounts as necessary to implement authorizing provisions                     |
| Agriculture                | USDA | U.S. Forest Service (USFS)  | Encourage support for expanded Anchor Forest initiatives                     |
| Agriculture                | USDA | USFS  | Make USFS implementation of the Tribal Forest Protection Act a priority      |
| Agriculture                | USDA | USFS  | Appropriate additional funding to support P.L. 93-638 contracts for forestry |
| Agriculture                | USDA | Rural Development 502 Direct Loan Program for Tribal Relending Demonstration, tribal set-aside      | \$50 million   |
| Agriculture                | USDA | TCU Broadband/IT Infrastructure Fund (Rural Utilities Service)                                      | \$24 million   |
| Commerce, Justice, Science | DOC  | Minority Business Development Agency, Native American Business Development                          | \$52 million, with grant set-aside for Native business assistance            |
| Commerce, Justice, Science | DOC  | Office of Native American Business Development  | \$5 million  |
| Commerce, Justice, Science | DOC  | Pacific Coastal Salmon Recovery Fund  | \$110 million  |
| Commerce, Justice, Science | DOC  | NOAA Mitchell Act Hatchery Programs   | \$25.9 million   |
| Commerce, Justice, Science | DOJ  | Office of Justice Programs (OJP)  | 10 percent tribal set-aside  |
| Commerce, Justice, Science | DOJ  | Crime Victims Fund  | 5 percent tribal set-aside   |
| Commerce, Justice, Science | DOJ  | Tribal Youth Program under the Juvenile Accountability Block Grants Program                         | \$25 million   |
| Commerce, Justice, Science | DOJ  | Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance (TCCLA) Grant Program | \$3 million  |
| Commerce, Justice, Science | DOJ  | Community Oriented Policing Services (COPS) Tribal Law Enforcement                                  | \$52 million   |
| Commerce, Justice, Science | DOJ  | Violence Against Women Act (VAWA), tribal set-aside   | \$5 million  |

|                            |          |  |  |
|----------------------------|----------|--|--|
| Commerce, Justice, Science | DOJ      | Indian Country Sexual Assault Clearinghouse  | \$500 thousand   |
| Commerce, Justice, Science | NSF      | Education and Human Resources Funding for TCUs   | \$20 million   |
| Defense                    | DOD      | Procurement Technical Assistance Program, American Indian Procurement Technical Assistance Program   | \$5 million  |
| Defense                    | DOD      | Indian Incentive Payment Program – Mandatory Funding   | \$25 million   |
| Energy and Water           | DOE      | National Nuclear Security Administration (NNSA) Minority Serving Institutions Partnership Program (MSIPP) Tribal College Initiative (Advanced Manufacturing) | \$5 million  |
| Energy and Water           | DOE      | Office of Indian Energy Policy and Programs  | \$30 million   |
| Energy and Water           | DOE      | Academic Alliances/Minority Serving Institutions Partnership Program, TCU Program  | \$5 million  |
| Energy and Water           | DOE      | Tribal Energy Loan Guarantee Program (TELGP), Credit Subsidy Costs   | \$2.5 million  |
| Energy and Water           | DOE      | TELGP, Administrative Costs  | \$2 million  |
| Financial Services         | FCC      | Tribal Broadband Fund  | \$1 billion  |
| Financial Services         | FCC      | Office of Native Affairs and Policy  | \$1.5 million  |
| Financial Services         | SBA      | Office of Native American Affairs  | \$5 million  |
| Financial Services         | Treasury | Community Development Financial Institutions Fund  | \$30 million with no non-federal matching requirements for Native American CDFI Assistance Program |
| Financial Services         | Treasury | Community Development Financial Institutions Fund, New Markets Tax Credit Program  | Ten percent set-aside and revise 'service area' to include Indian Country                          |
| Homeland Security          | DHS      | Tribal Homeland Security Grant Program   | \$40 million   |
| Homeland Security          | DHS      | Tribal Resiliency Continuity Program   | \$206.64 million   |
| Homeland Security          | DHS      | Creation of National Tribal Advisory Council   | \$2 million  |
| Homeland Security          | DHS      | Creation of COVID-19 After-Action Evaluation and Reports on the Federal Response in Indian Country   | \$2 million  |
| Homeland Security          | DHS      | Western Hemisphere Travel Initiative, Tribal IDs   | \$10 million   |

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| Homeland Security     | DHS      | Tribal Cultural Sensitivity Training for DHS personnel  | \$10 million   |
| Homeland Security     | DHS      | Homeland Security and Emergency Management Curriculum at Tribal Colleges and Universities (TCUs) and Tribal Non-Profits             | \$3 million  |
| Homeland Security     | DHS      | Tribal Homeland Security Centers of Excellence  | \$2 million  |
| Homeland Security     | DHS      | Tribal Cyber Security Resilience  | \$5 million  |
| Homeland Security     | DHS      | FEMA National Response and Coordination Center, Staffing the Tribal Desk  | \$2 million  |
| Homeland Security     | DHS-FEMA | Emergency Management Institute, Tribal Emergency Management Training  | \$1 million  |
| Homeland Security     | DHS-FEMA | Tribal Emergency Management Assistance, Compact Development, and Management   | \$4 million  |
| Interior, Environment | DOI      | Indian Affairs  | Require Indian Affairs to put forward an estimate of the full unmet obligations within each program under the Operation of Indian Programs |
| Interior, Environment | DOI      | Bureau of Indian Affairs (BIA) Tribal Courts Tribal Priority Allocations (TPA), including courts in Public Law 83-280 jurisdictions | \$123 million  |
| Interior, Environment | DOI      | BIA Law Enforcement, Criminal Investigations, Police Services, and Detention/Corrections  | \$527.4 million  |
| Interior, Environment | DOI      | Tribal Education Departments  | \$10 million   |
| Interior, Environment | DOI      | Bureau of Indian Education (BIE), Education Construction  | \$1 billion  |
| Interior, Environment | DOI      | Tribal Colleges and Universities (TCUs) Infrastructure Improvement  | \$525 million  |
| Interior, Environment | DOI      | Johnson O'Malley Program (TPA)  | \$230 million  |
| Interior, Environment | DOI      | Student Transportation  | \$73 million   |
| Interior, Environment | DOI      | Tribal Grant Support Costs (Administrative Cost Grants)   | \$90 million   |
| Interior, Environment | DOI      | BIE, Facilities Operations  | \$109 million  |
| Interior, Environment | DOI      | BIE, Facilities Maintenance   | \$725 million  |
| Interior, Environment | DOI      | Indian School Equalization Formula  | \$473 million  |



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| Interior, Environment | DOI | Education Management: Education IT   | \$120 million   |
| Interior, Environment | DOI | BIE Immersion Demonstration Grants   | \$5 million   |
| Interior, Environment | DOI | Juvenile Detention Education   | \$620 thousand  |
| Interior, Environment | DOI | TCU Institutional Operations (Titles I, II, and III of the Tribally Controlled Colleges and Universities Assistance Act) | \$93.257 million  |
| Interior, Environment | DOI | Institute of American Indian Arts and Center for Lifelong Education & Museum (AIANNH Culture and Art Development Act)    | \$10.71 million   |
| Interior, Environment | DOI | Haskell Indian Nations University & Southwestern Indian Polytechnic Institute (Snyder Act)                               | \$28 million  |
| Interior, Environment | DOI | BIA, Indian Child Protection and Family Violence Prevention Act Programs   | \$93 million  |
| Interior, Environment | DOI | BIA, Welfare Assistance (TPA)  | \$100 million   |
| Interior, Environment | DOI | BIA, Human Services Tribal Design (TPA), Tiwahe Initiative   | \$500,000   |
| Interior, Environment | DOI | Indian Child Welfare Act (TPA)   | \$30 million  |
| Interior, Environment | DOI | Social Services (TPA).   | \$70 million  |
| Interior, Environment | DOI | Office of Indian Energy and Economic Development, Indian Loan Guarantee Program  | \$25 million  |
| Interior, Environment | DOI | Office of Indian Energy and Economic Development   | \$25 million, with \$8 million set-aside for Native American Business Incubators Program grants |
| Interior, Environment | DOI | Community Development Program, Native American Business Development Institute  | \$2.5 million   |
| Interior, Environment | DOI | BIA, Rights Protection Implementation  | \$60 million  |
| Interior, Environment | DOI | BIA, Tribal Climate Resilience Program   | \$35 million  |
| Interior, Environment | DOI | BIA, Water Management, Planning, and Pre-Development Program   | \$10.5 million  |
| Interior, Environment | DOI | BIA, Water Resources Program (TPA)   | \$12 million  |

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| Interior, Environment | DOI     | BIA, Water Rights Negotiation/<br>Litigation program                              | \$12 million  |
| Interior, Environment | DOI     | BIA, Endangered Species Program   | \$4.5 million   |
| Interior, Environment | DOI     | BIA, Tribal Management/<br>Development Program                                    | \$25 million  |
| Interior, Environment | DOI     | BIA, Fish, Wildlife & Parks Projects,<br>Fish Hatchery Operations                 | \$7 million   |
| Interior, Environment | DOI     | BIA, Fish, Wildlife & Parks Projects,<br>Fish Hatchery Maintenance                | \$8 million   |
| Interior, Environment | DOI     | BIA, Wildlife & Parks Program (TPA)   | \$10 million  |
| Interior, Environment | DOI     | BIA, Natural Resources (TPA)  | \$12 million  |
| Interior, Environment | DOI     | BIA, Invasive Species Program   | \$12 million  |
| Interior, Environment | DOI     | Fish and Wildlife Service (FWS) Tribal<br>Wildlife Grants Program                 | \$12 million  |
| Interior, Environment | DOI     | BIA Forestry (TPA and Forestry<br>Projects)                                       | \$140.8 million   |
| Interior, Environment | DOI     | Office of Wildland Fire (OWF),<br>Emergency Preparedness                          | \$451 million   |
| Interior, Environment | DOI     | Office of Wildland Fire, Fuels<br>Management                                      | \$250 million   |
| Interior, Environment | DOI     | BIA Disaster Response Coordinating<br>Structure                                   | \$4 million   |
| Interior, Environment | DOI     | BIA, Housing Program (TPA)  | \$23 million  |
| Interior, Environment | DOI     | BIA Road Maintenance (TPA)  | \$75 million  |
| Interior, Environment | DOI     | National Park Service (NPS), Tribal<br>Historic Preservation Officer Pro-<br>gram | \$20 million  |
| Interior, Environment | DOI     | Native American Graves Protection<br>and Repatriation Act (NAGPRA)<br>Grants      | \$4 million   |
| Interior, Environment | DOI/IHS | ISDEAA Section 105(l) Lease<br>Agreements   | Provide such sums as may be neces-<br>sary through mandatory spending |
| Interior, Environment | DOI/IHS | ISDEAA Contract Support Costs   | Provide such sums as may be neces-<br>sary through mandatory spending |
| Interior, Environment | EPA     | Indian Environmental General<br>Assistance Program                                | \$100 million   |
| Interior, Environment | EPA     | National Safe Drinking Water State<br>Revolving Fund, tribal set-aside            | Five percent tribal set-aside   |
| Interior, Environment | EPA     | National Clean Water Act State<br>Revolving Fund, tribal set-aside                | Five percent tribal set-aside   |

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| Interior, Environment | EPA | Water Pollution Control Grants, tribal set-aside                                  | Twenty percent tribal set-aside  |
| Interior, Environment | EPA | Nonpoint Source Pollutant Control, Clean Water Act Section 319                    | \$13 million   |
| Interior, Environment | EPA | Exchange Network  | Ten percent tribal set-aside   |
| Interior, Environment | EPA | Great Lakes Restoration Initiative, tribal set-aside                              | \$17 million   |
| Interior, Environment | EPA | Geographic/Ecosystem Program in Puget Sound                                       | \$50 million   |
| Interior, Environment | HHS | Total FY 2022 Indian Health Service Funding                                       | Total Base: \$12.759 billion Services: \$9.674 billion Contract Support Costs: \$1.067 billion Facilities: \$2.017 billion |
| Labor, HHS, Education | CPB | American Indian and Alaska Native Public Radio Community Service grants           | \$5 million  |
| Labor, HHS, Education | CPB | Native Public Media   | \$500 thousand   |
| Labor, HHS, Education | CPB | Koahnic Broadcast Corporation   | \$500 thousand   |
| Labor, HHS, Education | DOL | YouthBuild Program  | \$107 million  |
| Labor, HHS, Education | DOL | Employment and Training Administration, Indian and Native American Program (INAP) | \$60.5 million   |
| Labor, HHS, Education | DOL | Native American Employment and Training Council                                   | \$250 thousand from non-INAP resources   |
| Labor, HHS, Education | ED  | Every Student Succeeds Act (ESSA) Local Education Agency Grants (Title I, Part A) | \$20 billion   |
| Labor, HHS, Education | ED  | ESSA Student Assessment Maintenance   | \$20 million   |
| Labor, HHS, Education | ED  | State-Tribal Education Partnership (STEP) Program                                 | \$5 million  |
| Labor, HHS, Education | ED  | ESSA Impact Aid Funding (Title VII)   | \$2 billion  |
| Labor, HHS, Education | ED  | ESSA Indian Education Formula Grants (Title VI, Part A, Subpart 1)                | \$198 million  |
| Labor, HHS, Education | ED  | ESSA Alaska Native Education Equity Assistance Program (Title VI, Part C)         | \$44 million   |
| Labor, HHS, Education | ED  | ESSA Native Hawaiian Education Program (Title VI, Part B)                         | \$44 million   |
| Labor, HHS, Education | ED  | ESSA Indian Education National Activities (Title VI, Part A, Subpart 3)           | \$13 million   |

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| Labor, HHS, Education | ED  | ESSA Special Projects for Native Students, Including Native Youth Community Projects (Title VI, Part A, Subpart 2)  | \$68 million  |
| Labor, HHS, Education | ED  | Higher Education Act, Strengthening Institutions, Discretionary and Mandatory Grants (Title III, A & F)   | \$75 million  |
| Labor, HHS, Education | ED  | Tribally Controlled Post-Secondary Career and Technical Institutions  | \$15 million  |
| Labor, HHS, Education | ED  | Tribal Education Departments  | \$10 million  |
| Labor, HHS, Education | HHS | Promoting Safe and Stable Families, Social Security Act (SSA), Title IV-B, Subpart 2 (discretionary portion) (3 percent tribal set-aside)                             | \$120 million total (\$3.6 million tribal set-aside)                    |
| Labor, HHS, Education | HHS | Promoting Safe and Stable Families, Tribal Court Improvement Grant Program  | \$5 million   |
| Labor, HHS, Education | HHS | Innovative Evidence-Based Community Prevention Program  | \$40 million  |
| Labor, HHS, Education | HHS | Community-Based Child Abuse Prevention  | \$100 million   |
| Labor, HHS, Education | HHS | Child Welfare Services Program (SSA, Title IV-B, Subpart 1)   | \$350 million   |
| Labor, HHS, Education | HHS | Maternal Infant and Early Childhood Home Visiting Program (3 percent tribal set-aside)  | \$420 million total (\$12.6 million tribal set-aside)                   |
| Labor, HHS, Education | HHS | Substance Abuse and Mental Health Services Administration (SAMHSA) Programs of Regional and National Significance, Child and Family Programs (Circles of Care grants) | \$8 million (\$6.5 million reserved for tribal Circles of Care program) |
| Labor, HHS, Education | HHS | SAMHSA Garrett Lee Smith Grants, State/Tribal Youth Suicide Prevention and Early Intervention Grant   | \$50 million  |
| Labor, HHS, Education | HHS | SAMHSA Garrett Lee Smith Grants, Campus Suicide Prevention Program  | \$9 million   |
| Labor, HHS, Education | HHS | SAMHSA American Indian and Alaska Native Suicide Prevention   | \$20 million  |
| Labor, HHS, Education | HHS | SAMHSA Tribal Behavioral Health Programs (Mental Health and Substance Abuse programs)   | \$50 million (\$25 million for each program)                            |

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| Labor, HHS, Education | HHS | Children's Mental Health Initiative - Systems of Care  | \$135 million   |
| Labor, HHS, Education | HHS | Vocational Rehabilitation Services, American Indian Vocational Rehabilitation Services Program, tribal set-aside | \$76 million  |
| Labor, HHS, Education | HHS | Administration on Native Americans (ANA) Social and Economic Development-Related Grants                          | \$40 million  |
| Labor, HHS, Education | HHS | Indian Head Start Program  | \$10.81 billion   |
| Labor, HHS, Education | HHS | TCU Head Start Partnership Program   | \$8 million   |
| Labor, HHS, Education | HHS | Native Languages Preservation (NLP), with Esther Martinez Program (EMP)  | \$15 million for NLP, with \$13 million for EMP   |
| Labor, HHS, Education | HHS | On the TRAIL to Diabetes Prevention program  | \$1.5 million   |
| Labor, HHS, Education | HHS | Health Resources and Services Administration (HRSA) Native Hawaiian Health Care Systems Program                  | At least \$30 million   |
| Labor, HHS, Education | HHS | Older Americans Act (Title VI- Part A, B), Native American Nutrition and Supportive Services                     | \$43 million  |
| Labor, HHS, Education | HHS | Older Americans Act (Title VI-Part C), Native American Caregiver Support Program                                 | \$12.5 million  |
| Labor, HHS, Education | HHS | Older Americans Act (Title VII-Subtitle B), Protection of Vulnerable Older Americans                             | Five percent tribal set-aside and make tribal nations and tribal organizations eligible for the Elder Justice Initiative under §§1397-1397f, subchapter XX, chapter 7, Title 42 |
| Labor, HHS, Education | HHS | Older Americans Act (Title V), Senior Community Service Employment Program                                       | \$434.4 million   |
| Labor, HHS, Education | HHS | Low Income Home Energy Assistance Program (LIHEAP), tribal set-aside   | \$100 million   |
| Military Const., VA   | VA  | Veterans Benefit Administration, Native American Direct Loan Program   | \$11 million  |
| Transportation, HUD   | HUD | Indian Housing Block Grant   | \$966 million   |

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| Transportation, HUD | HUD | Indian Community Development Block Grant               | \$100 million |
| Transportation, HUD | HUD | NAHASDA Title VI Loan Guarantee Program                | \$2 million   |
| Transportation, HUD | HUD | Section 184 Loan Guarantee Program                     | \$10 million  |
| Transportation, HUD | HUD | Tribal HUD-Veterans Affairs Supportive Housing Program | \$7 million   |
| Transportation, HUD | HUD | NAHASDA Section 703 Training and Technical Assistance  | \$7 million   |
| Transportation, HUD | HUD | Native Hawaiian Housing Block Grant                    | \$20 million  |
| Transportation, HUD | HUD | Section 184A Loan Guarantee                            | \$1 million   |
| Transportation, HUD | DOT | Tribal Transportation Program                          | \$1 billion   |
| Transportation, HUD | DOT | Tribal Technical Assistance Programs                   | \$5 million   |
| Transportation, HUD | DOT | Tribal Transit Program Formula Grants                  | \$75 million  |
| Transportation, HUD | DOT | Tribal High Priority Projects Program                  | \$50 million  |

# Endnotes

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DIVISION-G.pdf

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American Indian Higher Education Consortium

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AMERIND

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Environmental Protection Agency, National Tribal Caucus

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Intertribal Agriculture Council

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Intertribal Timber Council

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Intertribal Transportation Association

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National American Indian Housing Council

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National Association of Tribal Historic Preservation Officers

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National Center for American Indian Enterprise Development

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National Council of Urban Indian Health

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National Indian Child Welfare Association

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National Indian Health Service Tribal Budget Formulation Workgroup

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National Indian Education Association

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National Indian Health Board

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Native American Contractors Association

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Native Public Media

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Northwest Indian Fisheries Commission

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Self-Governance Communication & Education Tribal Consortium

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Seven Sisters Community Development Group

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The Office of Hawaiian Affairs

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Tribal Interior Budget Council Tribal Caucus

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