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NATIONAL CONGRESS OF AMERICAN INDIANS

INDIAN NATIONS AND THE 2009 PRESIDENTIAL TRANSITION

NOVEMBER 17, 2008

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INDIAN NATIONS AND THE 2009 PRESIDENTIAL TRANSITION

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INDIAN NATIONS ARE SOVEREIGN GOVERNMENTS, recognized under treaties and the U.S. Constitution. Yet tribal government issues have suffered from inattention during the transition and early years of many prior Administrations. If appointments and major policy decisions are delayed for extended periods, the long term issues in Indian country are left unaddressed and handed on to the next Administration. Any significant reform efforts must be planned during the transition and start at the beginning of an Administration if they are to succeed.

The Transition and Initial Appointment Process

Participation in Transition -- The Transition Team should identify highly knowledgeable tribal leaders to provide expertise and assistance on matters related to Indian Affairs. Consultation with tribal leaders is needed on all major appointments and decisions that will affect Indian Nations.

Secretary of Interior – The Secretary of Interior is the primary federal official entrusted with protecting tribal sovereignty, treaty rights, and a broad range of responsibilities to assist Indian Nations. Our primary objective is a Secretary of Interior who is knowledgeable and supportive of Indian Nations. It is high time that a Native leader is appointed Secretary of Interior.

White House Advisor on Indian Nations – Every major Indian issue will require policy coordination across Congress and the federal agencies. The next Administration should create a high level position within the White House, and this position must be accompanied by adequate staffing and support.

Create OMB Assistant Director for Native American Programs – Administration budgets for Indian programs are organized where they are subservient to natural resources budgets. Indian communities are not a natural resource. We strongly urge a reorganization of OMB to appropriately prioritize the budget for Indian programs.

Assistant Secretary for Indian Affairs – This position bears the full weight of the responsibilities for Indian Affairs, and trust reform, land management and law enforcement will be key priorities. This appointee must be a Native leader who has broad experience, the confidence of the Administration, and talented and energetic support. This appointment should be made within 30 days of inauguration.

Department of Justice – The Department of Justice has the primary responsibility for prosecuting felonies committed on Indian lands. DOJ has ignored this responsibility, while violent crime, sexual assaults and drug trafficking have reached epidemic proportions on some reservations. Strong leadership and coordination must be brought to the DOJ, to the Criminal Division, and the U.S. Attorneys to ensure that the federal government fulfills these crime fighting responsibilities.

Federal Judicial Appointments – Indian Nations have grown increasingly concerned as the Supreme Court and the federal judiciary have become hostile to tribal sovereignty and the trust responsibility.

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Sharp battles over judicial appointments have lead to the appointment of more and more ideologues, and fewer judges with pragmatic views. At the same time, there are currently no Native Americans serving in federal judgships. We strongly urge the appointment of Native American judges, and more judges who are knowledgeable and supportive of the fundamental principles of federal Indian law.

White House Office of Personnel – We strongly urge the placement of a knowledgable Indian person in the White House Office of Personnel to coordinate appointments where qualified Indian leadership is necessary, and in the hundeds of positions where knowledge of and relationships with tribal governnments will serve the Administration well.

Identifying Indian Country's Priorities

Although there are many issues that deserve attention during the next Administration, there are a few key issues where a transformation is needed in the way the federal government interacts with Indian Nations. These priorities should provide direction in appointments and initial focus for the first few months of a new Administration. These issues include:

1) Trust Reform and Tribal Natural Resources Management – For the last decade trust accounting litigation and trust reform have dominated the resources and energy of the Department of Interior. There is broad agreement that a fair settlement is necessary and that fundamental reforms are needed to improve the Department's management of Indian natural resources and trust accounts, to empower tribal governments in natural resources management, to address fractionation, and to streamline the bureaucracy that stifles economic development in Indian country. Leadership is needed to bring these issues to closure.

2) Tribal Sovereignty, Treaty Rights and Consultation – The rights of Indian Nations are recognized in the Constitution, treaties, federal laws and numerous Supreme Court decisions, yet too many federal agencies are unaware of their responsibilities toward tribes. Tribal governments have jurisdiction over land the size of seven states, yet are not included in important intergovernmental matters that affect the entire nation. Strong leadership is needed at the White House to ensure that Indian Nations are consulted on the broad range of issues that affect tribes, that consultation results in meaningful policies that respect tribal sovereignty.

3) Funding of Tribal Government Services – Under the federal policy of Tribal Self-Determination, Indian Nations have taken on an increasing role in providing the basic services on reservations such as education, health care, law enforcement and transportation. White House and OMB budgets and policies must ensure stable sources of funding for tribal governments so that tribal citizens receive equitable services in the same manner that is found in other jurisdictions throughout the United States. Adequate funding for programs that foster self-determination is paramount.

4) Law Enforcement – Rising crime rates and scarce law enforcement resources have grown into a crisis on many Indian reservations. Jurisdictional fragmentation, lack of funding, failures of coordination and an anemic federal response have all contributed to the problem. The Department of Justice and Department of Interior need new leadership that will seriously address the federal government's role in Indian country, and new resources must be focused to reduce crime on Indian reservations, particularly to address the increasing problems with drug trafficking, domestic violence and sexual assault.

5) Taxation – As tribes have increased their economic development efforts, they have run into several issues at the Department of Treasury and the Internal Revenue Service. On a range of issues from tax

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exempt bonds, to pension plans, to benefits provided to tribal members, the Department has failed to provide policy guidance while the IRS Audit Division has dramatically expanded review and enforcement in ways that are unfair and detrimental to Indian tribes. The Treasury Department needs leadership that will work with tribes and develop equitable policies. In addition, the new Administration should take a fresh look at the problem of dual taxation on retail sales on reservations, as tribes look for non-federal revenue streams to improve the inadequate services on reservations.

Anticipating National Policy Initiatives

In addition to identifying Indian Country's key priorities, Indian tribes must be considered and included in those issues that will be keystone policy initiatives for the new Administration. This will allow Indian Country to proactively work to ensure that tribal concerns are incorporated from the outset.

Economic Stimulus - The current downturn in the U.S. economy will be a top priority of the incoming Administration. Indian tribal communities should be included in any economic stimulus efforts.

Health Care -- The nation is engaged in a large-scale debate on how to reform the health care system in America. Much of the debate has centered on proposals to ensure universal health care for all Americans. The Federal Government has a unique responsibility to provide health care to Indian people. If the new Administration and Congress moves forward with health care reform, tribes should be an integral component in any of the proposals to reform health care.

Climate Change and Energy - Climate change is having the most profound impacts on native communities, such as tribes located in regions in Alaska and the arid West that are already affected by rising temperatures and increased drought. Tribal communities live closer to the land, and are more dependent on subsistence hunting and fishing and other natural resources affected by climate change. Tribes are also uniquely positioned to contribute to sustainable energy technologies, and should be prominently included in any national climate change strategy.

Education and Job Training – Education policy will be a key question for the next Administration. However, the federal government has direct responsibility for only two education systems – military and Indian school systems. Indian education and job training should become a model for preparing our children and our workers to compete in the global economy while also respecting the values of local communities.

Transition Policy Papers on Major Issues -- Detailed policy guidance on key issues should be prepared during the Transition to enable the incoming Administration to move forward with proactive policies that will benefit Indian Country. In consultation with tribal leaders, guidance should be prepared on the following topics, among others:

Law Enforcement	Education
Trust Reform and Trust Settlement	Homeland Security and Emergency Response
Sovereignty and Government to	Energy
Government Consultation	Climate Change
Land into Trust	Sacred sites and Cultural resources
Budget and Funding	Gaming
Taxation	Agriculture
Economic Development	Transportation
Health Care	Water rights

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RECOMMENDATIONS FOR NATIVE POLITICAL APPOINTMENTS IN THE OBAMA ADMINISTRATION

Prepared by
National Congress of American Indians
November 5, 2008

Introduction

The National Congress of American Indians (NCAI) is the oldest and largest organization representing American Indian and Alaska Native Tribal governments. With the election of President-elect Obama, the presidential transition is underway. Decisions on personnel matters are among the most important decisions which will be made in the Obama Administration. The appointment of qualified Native Americans to positions of importance and interest to American Indian and Alaska Native Tribes recognizes and facilitates the government-to-government relationship between tribal governments and the United States, honors the United States' trust responsibility to provide for the well-being of Native people, and invokes consultation between the federal government and NCAI as the representative of Tribes.

Key political appointments in the Obama Administration which significantly affect Tribes and Native individuals are listed below. NCAI recommends that President-elect Obama appoint qualified Native individuals to these positions. From this list of Native political appointments, NCAI identifies its highest priorities and recommends immediate appointment or appointment within 30 days of the inauguration of President-elect Obama of qualified Native individuals to these positions as follows:

Immediate Appointments

- White House Senior Advisor to the President for American Indian and Alaska Native Tribes. This position answers directly to the Chief of Staff and is the principal advisor to the President on all matters related to American Indian and Alaska Native Tribes and Native individuals. It serves as the primary contact and interface with tribal governments and Native individuals and coordinates policy across Congress and the federal departments and agencies. It requires adequate staffing and administrative support.
- Associate Director, White House Office of Presidential Personnel. This position is responsible for the appointment of highly qualified Native individuals to positions throughout the Obama Administration as well as other general appointments in various departments and agencies.

Appointments Within 30 Days

- Office of Management and Budget (OMB), Associate Director for Native Programs. In the past, Administration budgets for Native programs have been organized as subordinate to natural resources budgets. NCAI strongly urges a reorganization of OMB to appropriately prioritize the budget for Native programs. This position is responsible for this reorganization and ensures that OMB budgets and policies provide stable sources of funding for tribal governments so that tribal citizens receive equitable services in the same manner that is found in other jurisdictions throughout the United States. Adequate funding for programs that foster self-determination is paramount.

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- Department of Interior, Assistant Secretary for Indian Affairs. This position bears the full weight of the responsibility for Indian affairs and key priorities are trust reform, land management, and law enforcement. For the last decade, trust accounting litigation and trust reform have dominated the resources and energy of the Department of the Interior. There is broad agreement that a fair settlement is necessary and that fundamental reforms are needed to improve the Department's management of Indian natural resources and trust accounts, to empower tribal governments in natural resources management, to address fractionation, and to streamline the bureaucracy that stifles economic development in Indian Country.
    - Recommendations: In order to ensure the leadership needed to accomplish these goals, NCAI recommends that President-elect Obama work with the Congress to enact legislation in accordance with S. 1439, Indian Trust Reform Act of 2005, from the 109th Congress, which was not enacted into law, to replace and elevate the position of Assistant Secretary for Indian Affairs to Deputy Secretary for Indian Affairs. The functions of the Assistant Secretary for Indian Affairs would be transferred to the Deputy Secretary for Indian Affairs who shall report directly to the Secretary. In the meantime, NCAI recommends the appointment of a strong Native leader to the position of Assistant Secretary for Indian Affairs who has the full confidence of the Obama Administration and the support of a talented and energetic team.
- Department of Justice, Deputy Assistant Attorney General for Indian Country Crime. The Department of Justice has ignored its responsibilities for prosecuting crimes committed on Indian reservations while violent crime, sexual assaults, and drug trafficking have reached epidemic proportions on some reservations. This position provides strong leadership and coordination to the Department and the U.S. Attorneys to ensure that the federal government fulfills its crime-fighting responsibilities to Indian communities. Senator Byron Dorgan introduced S. 3320, Tribal Law and Order Act of 2008, in the U.S. Senate which provides that the Attorney General shall appoint a Deputy Assistant Attorney General for Indian Country Crime.
    - Recommendation: NCAI supports the enactment of S. 3320, or its successor, into law. In any event, NCAI recommends that the Attorney General work with the White House to appoint this position as a political appointment.

NCAI recommends immediate consultation with presidential transition representatives regarding the appointment of the Secretary of the Interior who has a significant impact on Tribes and Native individuals as follows:

Immediate Consultation

- Secretary of the Interior. The Secretary of the Interior is the primary federal official entrusted with protecting tribal sovereignty, treaty rights, and a broad range of responsibilities to assist Tribes.
    - Recommendations: NCAI's primary objective is the appointment of a Secretary of the Interior who is knowledgeable and supportive of Tribal governments and is not solely focused on federal lands management. NCAI recommends the consideration of Native candidates for Secretary of the Interior.

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NCAI recommends that President-elect Obama appoint qualified Native Americans to the following positions:

Executive Office of the President
In addition to the highest priority positions in the Executive Office of the President identified above (White House Senior Advisor to the President for American Indian and Alaska Native Tribes, Associate Director in the White House Office of Presidential Personnel, Associate Director for Native Programs, OMB), a key position is:

- Associate Director, White House Domestic Policy Council. This position assists in developing the President's policy initiatives including Native issues.

Executive Branch Agencies:

Department of Agriculture

- Director of Native American Programs. The Secretary of Agriculture oversees the U.S. farm sector and rural America. Agriculture is the second biggest employer in Indian Country and the backbone of the economy of approximately 230 Tribes. According to Census 2000, 36% of Native Americans live in rural areas and one in four Native Americans lives below the poverty line (26%) which is the highest poverty rate of any racial grouping. The Director of Native American Programs is presently located in the Office of External and Intergovernmental Affairs and is USDA's primary contact with tribal governments and their members.
    - Recommendations: In order to more effectively implement the government-to-government relationship, NCAI recommends that President-elect Obama work with Congress to enact legislation to elevate the Director of Native American Programs to Assistant Secretary for Tribal Affairs. The functions of the Director of Native American Programs would be transferred to the Assistant Secretary for Tribal Affairs who shall report directly to the Secretary. In the meantime, NCAI recommends the relocation of this position to the Immediate Office of the Secretary or redefinition as a Deputy Assistant Secretary for Tribal Affairs in the Office of Congressional Relations. This position requires adequate staffing and administrative support.
- Farm Service Agency (FSA) State Directors. Consider Native candidates for FSA State Directors especially in states with significant Native populations.
- Rural Development (RD) State Directors. Consider Native candidates for RD State Directors especially in states with significant Native populations.
- Senior Advisor to the Under Secretary of Rural Development for Tribal Affairs. Since the mission of USDA Rural Development is to increase economic opportunity and improve the quality of life for all rural Americans and 36% of Native Americans live in rural areas and have the highest poverty rate of any racial grouping, this position assists the implementation of RD's mission in relation to Tribes and Native individuals.

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Department of Commerce

- Director of Native American Business Development. During the Bush Administration, this position was a temporary expert appointment. According to 25 U.S.C. 44, which establishes this position, the Secretary of Commerce appoints the Director of Native American Business Development.
    - Recommendations: NCAI recommends that the Secretary of Commerce work with the White House to establish this position as a permanent political appointment. This position is presently located in the Minority Business Development Agency. In order to implement the government-to-government relationship, NCAI recommends the relocation of this position to the Office of the Secretary.

Department of Defense

- Senior Advisor to the Secretary for Tribal Affairs. During the Bush Administration, a temporary Senior Tribal Liaison position was located in the Office of the Deputy Under Secretary of Defense (Installations and Environment) at the Department of Defense.
    - Recommendation: In order to recognize the government-to-government relationship and to honor the federal trust responsibility to Native people, NCAI recommends that the Department of Defense and the White House work together to redefine and relocate the Senior Tribal Liaison position to Senior Advisor to the Secretary for Tribal Affairs in the Immediate Office of the Secretary as a permanent political appointment.

Department of Education

- Assistant Deputy Secretary and Director, Office of Indian Education. The Bush Administration demoted this position to Director, Office of Indian Education in the Office of Elementary and Secondary Education. Native Americans have consistently lower educational attainment rates for high school diploma (71%) and college degrees (11.5%), compared to the national average for high school (80%) and college (24%) attainment. According to the 2007 National Indian Education Study, American Indian and Alaska Native students in fourth and eighth grades scored significantly lower in reading and math than their peers. In fact, Native students were the only students to show no significant progress in either subject since 2005.
    - Recommendation: Given the continued need for the improvement of the education of Native people, NCAI recommends the reinstatement of this position to Assistant Deputy Secretary and Director, Office of Indian Education in the Office of the Deputy Secretary.
- Director, White House Initiative on Tribal Colleges and Universities.
- Special Assistant, Tribal Colleges and Universities.

Department of Energy

- Deputy Assistant Secretary for Intergovernmental and Tribal Affairs.

Department of Health and Human Services

- Commissioner, Administrator for Native Americans.

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- Director, Indian Health Service (IHS). Despite the federal government's trust responsibility to provide for the health care of American Indians and Alaska Natives, Native people suffer disproportionately higher health disparities and mortality rates compared to the general population. In the past, Senator John McCain authored legislation to elevate the position of Director, IHS to Assistant Secretary for Indian Health which was unsuccessful.
    - Recommendation: NCAI recommends that President-elect Obama work with Congress to enact legislation to elevate the position of Director, IHS to Assistant Secretary for Indian Health.
- Deputy Director, Indian Health Policy, IHS.
- Deputy Director for Management Operations, IHS.
- Director, Office of Urban Indian Health Programs, IHS.
- Director, Office of Finance and Accounting, IHS.
- Director, Office of Information Technology, IHS.
- Director, Office of Management Services, IHS.
- Director, Office of Resource Access and Partnerships, IHS.

Department of Homeland Security

- Senior Advisor to the Secretary for Tribal Affairs. The Department of Homeland Security partners with state, local, and tribal authorities to prevent terrorists and terrorist weapons from entering the United States. Approximately 40 Tribes are located on or near the U.S. international borders with Mexico and Canada. Hundreds of other tribal governments are the only major governmental presence in rural and isolated locations, serving as the first and often only responders for Native and non-Native communities.
    - Recommendation: In order to work with Tribes on a government-to-government basis to protect the United States, NCAI recommends the appointment of a Senior Advisor to the Secretary for Tribal Affairs in the Office of the Secretary, which is a new position.

Department of Housing and Urban Development (HUD)

- Deputy Assistant Secretary for Native American Programs. HUD administers the bulk of federal housing programs for American Indians, Alaska Natives, and Native Hawaiians. The Secretary of HUD operates through the Office of Native American Programs (ONAP) to facilitate the federal trust responsibility to improve the housing and socioeconomic conditions of Tribes and Native people. Although there has been progress, Native housing is still far more substandard than housing in the rest of the country. An estimated 200,000 housing units are needed immediately in Indian Country and approximately 90,000 Native families are homeless or underhoused. Overcrowding on tribal lands is almost 15%, and 11% of Native homes lack complete plumbing and kitchen facilities.
    - Recommendation: In order to more effectively implement the federal trust responsibility, NCAI recommends that President-elect Obama work with Congress to enact legislation to replace and elevate the position of Deputy

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Department of the Interior

- Counselor to the Secretary. The Secretary of the Interior is the primary federal official entrusted with protecting tribal sovereignty, treaty rights, and a broad range of responsibilities to assist Tribes. This position provides expert counsel on the government-to-government relationship between tribal governments and the United States.
- Special Trustee for American Indians. In 1994, Congress enacted the American Indian Trust Fund Management Reform Act which created the Office of Special Trustee for American Indians (OST) in the Department of the Interior (DOI). In 1996, the Secretary of the Interior ordered the transfer of responsibility for trust fund management from the Bureau of Indian Affairs (BIA) to OST.
    - Recommendations: NCAI recommends the elimination of the Special Trustee for American Indians and the transfer of the functions of the OST to the Deputy Secretary for Indian Affairs according to the transfer plan outlined in S. 1439, Indian Trust Reform Act of 2005, from the 109th Congress, which was not enacted into law. Some of the functions of the OST would remain separate, such as the Office of Trust Funds Management. Other functions would revert back to Bureau of Indian Affairs management, with resources and personnel focused at the local level rather than in central management. In the short term, NCAI recommends the appointment of a Special Trustee for American Indians in order to facilitate the transfer and to consult with both Congress and Tribes on longer-term trust reform planning.
- Chairman, National Indian Gaming Commission.
- Solicitor. Consider Native candidates for this position.
- Associate Solicitor, Indian Affairs.

Department of Justice

- Director, Office of Tribal Justice. The Office of Tribal Justice is presently semi-permanent and is composed of career detailees from the Department of Justice. Senator Byron Dorgan introduced S. 3320, Tribal Law and Order Act of 2008, which provides that the Attorney General shall establish the Office of Tribal Justice as a permanent division of the Department.
    - Recommendation: NCAI supports the enactment of S. 3320, or its successor, into law. In any event, NCAI recommends that the Attorney General work with the White House to ensure that the Office of Tribal Justice is a permanent division of the Department.
- U.S. Attorneys. Consider Native applicants especially in states which have Indian Country jurisdictions.

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- United States Marshals. Consider Native applicants especially in states which have Indian Country jurisdictions.

Department of Labor

- Senior Advisor to the Secretary for Tribal Affairs. According to Census 2000, unemployment among Native Americans in 2000 was 12.3%, more than twice the national average of 5.7%, and had the highest poverty rate of any racial grouping.
    - Recommendation: In order to recognize the government-to-government relationship and facilitate the federal trust responsibility to Tribes and individual Natives, NCAI recommends the appointment of a Senior Advisor to the Secretary on Tribal Affairs in the Office of the Secretary, which is a new position.

Department of State

- Senior Advisor to the Secretary for Tribal Affairs. In order to implement the government-to-government relationship, NCAI recommends the appointment of a Senior Advisor to the Secretary for Tribal Affairs in the Office of the Secretary, which is a new position to ensure that tribal governments are appropriately included and informed about developments in international relations.

Department of Transportation

- Deputy Assistant Secretary for Tribal Government Affairs. Transportation infrastructure is vital to tribal economies, education systems, health care and social service programs. On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). SAFETEA-LU establishes a Deputy Assistant Secretary for Tribal Government Affairs within the Office of the Secretary which is a Presidential appointment. The Bush Administration never appointed this position.
    - Recommendation: In order to properly implement SAFETEA-LU and maintain the federal trust responsibility to address the serious transportation, transit and traffic safety problems facing tribal communities, NCAI recommends the appointment of a Deputy Assistant Secretary for Tribal Government Affairs.
- Associate Administrator for Tribal Lands/Senior Associate Administrator for Tribal Traffic Safety. Unsafe and often inaccessible roads, bridges, and ferries threaten tribal communities. Tribal members suffer injury and death while driving and walking along reservation roadways at rates far above the national average. Between 1975 and 2002, 5962 fatal motor vehicle crashes were reported on Indian reservation roads resulting in 7,093 deaths. The trend is increasing, up nearly 25% to over 284 deaths per year in the last five years of study. While the number of fatal crashes in the nation during the study period declined 2.2%, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5%. American Indians also have the highest rates of pedestrian injury and death per capita of any racial or ethnic group in the United States.
    - Recommendation: In response to these shocking statistics, NCAI recommends the appointment of an Associate Administrator for Tribal Lands in the Federal Lands Highway Programs and a Senior Associate Administrator for Tribal Traffic Safety in the National Highway Traffic Safety Administration, which are new positions.

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Department of the Treasury

- Senior Advisor to the Secretary for Tribal Affairs. In order to assist Tribes access capital and promote tribal economic development on a government-to-government basis, NCAI recommends the appointment of a Senior Advisor to the Secretary on Tribal Affairs in the Office of the Secretary, which is a new position.

Department of Veterans Affairs

- Senior Advisor to the Secretary for Tribal Affairs. Native Americans have served with distinction in United States military actions for more than 200 years. Historically, Native Americans have the highest record of service per capita when compared to other ethnic groups. According to Census 2000, over 220,000 Native American veterans self-identified in a single race category as American Indian or Alaska Native. Native American veterans report four times the unmet health care needs of other veterans.
    - Recommendation: In order to recognize the government-to-government relationship and facilitate the federal trust responsibility to Tribes and individual Native people, NCAI recommends the appointment of a Senior Advisor to the Secretary for Tribal Affairs in the Immediate Office of the Secretary, which is a new position.
- Director, Center for Minority Veterans. Consider Native candidates for this position.

Independent Agencies and Governmental Corporations

Advisory Council on Historic Preservation

- Member of Indian Tribe or Native Hawaiian Organization.

Commission on Civil Rights

- Commissioner.
- Special Assistant to the Commissioner.

Environmental Protection Agency (EPA)

- Director, American Indian Environmental Office (AIEO). The Director, AIEO is located within the EPA Office of Water. Since the AIEO sets the tone of EPA's Indian Policy, it is important that the Director of AIEO reflects the environmental policies of the Obama Administration. Since the establishment of the AIEO in 1994, the Director's position has been a political one chosen by incoming Administrations. In early 2008, that position was changed to a career SES position. EPA's National Tribal Caucus, among others, wrote a letter to EPA's Administrator objecting to this change, asserting that the decision was made without tribal consultation.
    - Recommendations: NCAI recommends that the Administrator consult with EPA's National Tribal Caucus and the tribes, whether to return this position back to a political appointment. Since the AIEO addresses tribal issues across environmental media, NCAI recommends the elevation and relocation of the Director of AIEO from the Office of Water to the Office of the Administrator.

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Farm Credit Administration

- Member, Farm Credit Administration Board. Since agriculture is the second biggest employer in Indian Country and the backbone of the economy of about 230 Tribes, NCAI recommends the consideration of Native candidates for the Farm Credit Administration Board.

Federal Energy Regulatory Commission (FERC)

- Member, FERC. In order to work with Tribes on a government-to-government basis and address the effects of proposed FERC projects on Tribes, NCAI recommends the consideration of Native candidates for Commissioner.

Presidio Trust

- Member, Board of Directors. Given the history of the Presidio which includes a long era directing operations to control and protect Native Americans, consider the appointment of Native Americans to the Board of Directors.

Small Business Administration

- Assistant Administrator, Office of Native American Affairs.
- Regional Administrator. Consider Native candidates for Regional Administrators.

Advisory Councils and Boards

- Institute of American Indian and Alaska Native Culture and Arts Development Board of Trustees. The President appoints 13 voting members by and with the advice and consent of the Senate who are Native people who are widely recognized in the field of Native art and culture and represent diverse political views and fields of expertise.
- National Advisory Council on Indian Education. The Council consists of 15 American Indians and Alaska Natives who advise the Secretary of Education regarding the funding and administration of programs which benefit Native children or adults.
- Community Development Advisory Board. The President appoints nine private citizens including an individual who has personal experience and specialized expertise in the unique lending and community development issues which confront Indian tribes on Indian reservations.

Federal Judicial Appointments

American Indian and Alaska Native Tribes have grown increasingly concerned as the Supreme Court and the federal judiciary have become increasingly hostile to tribal sovereignty and the trust responsibility. Sharp battles over judicial appointments have lead to the appointment of more ideologues and fewer judges with pragmatic real-world experience. NCAI strongly urges the appointment of Native judges and more judges who are knowledgeable and supportive of the fundamental principles of federal Indian law.

General Appointments

NCAI recommends the consideration of Native candidates for general appointments throughout the Obama Administration which NCAI has not specifically identified in these recommendations. Examples of general positions are Assistant Secretaries, Under Secretaries, Agency Directors, General Counsels, Counselors, Special Assistants, Communication Directors, and Intergovernmental and Congressional Relations Directors.

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TRIBAL SOVEREIGNTY, SELF-DETERMINATION AND GOVERNMENT TO GOVERNMENT CONSULTATION

Policy Statement -- Presidential Transition 2009

The governmental rights of Indian Nations are recognized in the United States Constitution, treaties, federal laws and numerous Supreme Court opinions. Throughout American history Indian Nations have been recognized as sovereigns that pre-existed the United States and have maintained their rights to govern their own people and their own lands.

That unique consideration creates the need for government-to-government consultation between the United States and Indian Nations. Executive Order 13175 directs each agency to have an "accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." However, too many federal agencies fail to fulfill this important responsibility, to the detriment of federal and tribal interests and the welfare of all Americans.

Tribal governments have jurisdiction over a land mass equal to seven states. Yet, Indian Nations are not included in important intergovernmental matters that affect the entire nation. For decades agencies have developed and implemented a range of policies and processes for consultation, but still take important actions without consultation, and fail to take action on critical issues even after a great deal of consultation. Effective consultation does occur, but it is sporadic – each federal official discovers the benefits of tribal communication through trial and error.

We urge the Administration to issue an Executive Memorandum to the heads of executive departments and agencies that underscores the recognition of tribal sovereignty and reinforces the need for meaningful consultation. Native people greatly appreciated the reference to Native Americans in President-Elect Obama's election night speech, and we would encourage President Obama to continue to reference tribal governnments in his public statements. An early signal will help to change attitudes and enourage federal officials to include Indian Nations as part of the solution in the federal system of governance.

Indian Nations should be engaged on the broader issues that affect all governments -- energy, climate change, law enforcement, economic development, environmental protection, transportation and infrastructure development – to name just a few. Tribal governments have a great deal to offer in these and many other areas, and should be included in policymaking at the same levels as states.

On tribal-specific issues, such as trust reform or the functions of the Bureau of Indian Affairs, the federal government has a trust responsibility to Indian tribes, to make decisions that are for the benefit of the tribes. The federal government must assume that Tribal Nations themselves are the best judge of their own interests. A new commitment to Tribal Self-Determination will mean increased support for tribal initiatives and the removal of legal and bureaucratic barriers.

The United Nations adopted the Declaration on the Rights of Indigenous Peoples on September 13, 2007 with 143 nations voting in favor and only 4 nations opposed – one of them the United

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States. This Declaration acknowledges a broad range of indigenous sovereign and collective rights, including the right to self-determination. The United States should reverse its vote on this historical document and join the nations of the world in supporting indigenous sovereignty.

Meaningful Consultation with Tribal Nations

Consultation under existing federal policies has fallen short of what a true government-to-government relationship requires. As a result, simply ratcheting up consultation requirements in written policies is unlikely to make a difference without an increased commitment on the part of the Administration to conduct meaningful consultation and the creation of a mechanism for tribes to hold the federal government accountable when it fails to adequately consult with Tribal Nations. Efforts to reform federal consultation policies and practice should: (1) set minimum standards for the consultation process; (2) build and reinforce the political commitment to government-to-government consultation; and (3) create accountability mechanisms that empower tribes to be true partners in federal policy-making.

A key challenge for both tribal leaders and for the next Administration is how we can make consultation more effective and efficient, and integrate it as an ordinary part of the intergovernmental policy discussions, so that it is embraced by federal officials as an integral part of decision making that will result in a fully vetted and considered decision.

Executive Branch Recognition of Sovereignty

In the new Administration, Tribal Nations need to have a direct relationship with the executive branch. Strong leadership is needed at the White House to ensure that Indian Nations are consulted on the board range of issues that affect tribes, that consultation results in meaningful policies that respect tribal sovereignty and core concerns. Finally, strong leadership is needed at the White House to ensure that the time and energy of the tribes and federal agencies is used effectively. Every major Indian issue will require policy coordination across Congress and the federal agencies. The next Administration should create a high level position within the White House, and this position must be accompanied by adequate staffing and support.

Ideally, a White House position for Indian Country would serve as a coordinator of federal agencies compliance with the highest fiduciary standards and respectful of the national policy of Indian self-determination and self-governance. In addition, the position could serve as an ombudsman of sorts where Tribal Nations can seek assistance in overall relations with the executive agencies. There are some federal agencies that truly recognize their responsibilities to Tribal Nations, but there are others that do not even consider the impact of agency actions in Indian Country. For situations such as that, a White House position would be extraordinarily helpful for both Tribal Nations and the federal government.

The White House position must have authority to effect change and ensure that the federal agencies are responsive to the needs of Indian Country. The position would be strongest if it answers directly to the Chief of Staff.

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FIXING THE TRUST SYSTEM: INDIAN LANDS AND NATURAL RESOURCES

Policy Statement -- Presidential Transition 2009

BACKGROUND

There are nearly 60 million acres of Indian land – an area the size of Nebraska – and the land and natural resources are fundamental to the tribal cultures and economies. Indian land is held in trust or restricted status by the federal government to protect it from alienation and trespass and to protect tribal autonomy. Indian land is also a primary source of economic activity for Indian communities. But the federal trust system for Indian land is severely troubled and needs reforms.

The federal government controls management and leasing of Indian trust lands and is responsible for tens of billions of dollars in revenues from oil, gas, timber, minerals, agriculture and other resources. The "*Cobell*" litigation, a class-action lawsuit that has been pending for twelve years, concerns royalties due to individual Indian people and there is similar litigation on behalf of tribal lands. There is wide agreement that the federal government did not properly account for trust funds. The National Congress of American Indians is encouraging a settlement of the litigation, and reforms to the trust system so that the problems of the past will not recur.

It is time for a fair settlement of trust accounting and mismanagement claims.

No one will ever know exactly how much is owed, but in 2006 the Senate Committee on Indian Affairs determined – based on the evidence – that $8 billion is a fair settlement for the Indian claims in *Cobell*. This reflects an approximate 5% error rate – a very low error rate given the documented scope of mismanagement. A recent decision in federal district court estimated accounting errors at $455 million, but excluded consideration of interest and uncollected payments. An equitable settlement will take these factors into account. A settlement is simply returning money that is owed to Indian account holders.

Continued litigation will be extremely expensive and unlikely to lead to compensation in the lifetime of most account holders.

The Department of Interior is under court order to complete an enormous historical accounting for Indian trust funds that will take at least a decade to complete and will cost billions. This "accounting" is unlikely to satisfy anyone, as the Department does not have the records to compare accounts receivable with receipts and disbursements. No one wants to spend billions on a historical accounting when that money could be put to better use benefiting Indian people and reservation land management.

Continued litigation is undermining the tribal-federal relationship and the mission of the Department of Interior.

It is unconscionable that Indian tribes are being forced to pay for the mismanagement of Indian funds, but at this time tribes are losing approximately $100 million annually out of Indian programs to pay for the accounting -- and none of this money is paying for the land management services that reservations need. In addition, an embattled mindset has developed at Interior that hinders dialogue with the tribes, impedes economic development and distracts enormously from their efforts in other areas like law enforcement and education.

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REFORMING THE TRUST SYSTEM FOR THE FUTURE

As a primary priority, the new Administration should consult with tribes, work with Congress, and move forward on trust reform measures that will make the federal government a partner in tribal economic development, rather than a bureaucracy that stands in its way. We need to increase the efficiency of trust administration, improve returns on trust resources, and redirect trust administration to increase support for tribal development initiatives.

Indian Trust Asset Management Demonstration Project

Create a demonstration project where an Indian tribe can develop its own system and plan to take over resource management on the reservation. The plan would identify the trust assets, establish objectives and priorities, and allocate the available funding. Contracting and compacting tribes may establish their own management systems consistent with federal laws. Provide for comprehensive land use planning and a trust asset management agreement authorizing the tribe to lease land without the approval of the Secretary.

Fractional Interest Purchase and Consolidation Program

Fractionation of land ownership is one of the root causes of trust mismanagement. Amend the Indian Land Consolidation Act to streamline land acquisition procedures and create incentives for voluntary sales of fractionated interests by allowing the Secretary to offer more than fair market value. Fully fund the Indian Land Consolidation Program, and work directly with the tribal governments on the reservations where the fractionation exists. The Inter Tribal Monitoring Association is working with tribes to develop proposals to attack fractionation.

Restructuring Bureau of Indian Affairs and Office of Special Trustee

Create a single line of authority for all functions that are now split between the BIA and the Special Trustee, and establish a Deputy Secretary of Indian Affairs to have the responsibility to supervise any activities related to Indian affairs that are carried out by the Bureau of Reclamation, the Bureau of Land Management, and the Minerals Management Service. Transfer the functions of the Special Trustee to the Deputy Secretary for Indian Affairs.

Audit of Trust Funds

Provide for the Inspector General of the Department of Interior to hire an independent auditor to conduct an audit of the Secretary's financial statements and report on the Secretary's internal controls. The Comptroller General would conduct a review of the audit.

Regulations, Policies and Systems

The Interior Department is struggling to update many old regulations and systems that date back as far as the 1930's. The Department has begun these efforts, but much more work is needed. The key will be to ensure that tribal governments are deeply involved in development so that the new systems and regulations meet tribal needs both now and in the future. The key is to remove obsolete bureaucratic oversight and to create greater flexibility to encourage tribal self-management and to account for the very different resources on different reservations.

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Law Enforcement and Criminal Justice
Presidential Transition 2009

Unlike in other communities within the United States, the federal government has assumed responsibility for much of the day-to-day law enforcement services on Indian reservations.[1] Under the Major Crimes Act and other federal laws, Indian communities are dependent on the federal government for investigation and prosecution of many crimes committed on Indian reservations. The Department of Justice and Department of Interior share responsibility for law enforcement in tribal communities. In addition, the Department of Health and Human Services through SAMHSA and the IHS, provide much needed treatment, rehabilitation, prevention, and early intervention programs. Growing reservation crime rates indicate that this arrangement is failing to keep Indian people safe.

A host of Congressional hearings, government reports, and media investigations have documented that there is a public safety crisis in American Indian and Alaska Native tribal communities across the nation. American Indians experience per capita rates of violence that are much higher than those of the general population. Domestic violence and drug-related crimes are particularly prevalent.

For too long Indian Country law enforcement has been grossly underfunded at all levels of police, investigation, prosecution, courts, detention and rehabilitation. An initiative to increase funding during the Clinton Administration was short-lived,[2] and funding cuts during the Bush Administration demonstrate that public safety in Indian Country simply was not a priority. Most reservation communities have 2-3 officers charged with patrolling an area the size of Delaware.[3] U.S. Attorneys decline to prosecute more than two-thirds of cases originating in Indian Country, a rate far higher than the average.[4] And, tribal detention facilities are notoriously unsafe and unsecure.[5]

In order to bring justice and safety to Native communities, it is imperative that the next Administration make public safety a priority. To that end, NCAI recommends the following:

Department of Justice – First 100 Days

1. Establish an Office of Indian Country Crime in the Criminal Division.

2. Give the Office of Tribal Justice direct reporting authority to the Attorney General so that it can play a meaningful role in guiding policy development across the agency.

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[1] Major Crimes Act, Indian Civil Rights Act, *Oliphant v. Suquamish*

[2] "Report of the Executive Committee for Indian Country Law Enforcement Improvements," Final Report to the Attorney General and Secretary of the Interior, October 1997.

[3] U.S. Dept. of Interior, Bureau of Indian Affairs, Office of Law Enforcement Services, "Gap Analysis," April 18, 2006.

[4] Michael Riley, *Lawless Lands*, DENVER POST (Nov. 11-14, 2007).

[5] Office of Inspector General, Department of Interior, "Neither Safe Nor Secure: An Assessment of Indian Detention Facilities," September 2004, *available at* www.doioig.gov/upload/IndianCountryDetentionFinal%20Report.pdf.

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3. Instruct U.S. Attorneys with Indian Country jurisdictions that prosecutions of Indian Country crime are a priority.

4. Give the Chair of the Native American Issues Subcommittee a permanent seat on the Attorney General's Advisory Committee of United States Attorneys.

5. Increase the number of FBI agents assigned to Indian Country.

6. Support swift passage of the Tribal Law and Order Act, S. 3320 in 110th Congress.

7. Support immediate amendments to the Adam Walsh Act to relieve the inequitable treatment of tribal governments and create an effective sex offender registry system on Indian reservations. The Bureau of Prisons should fully comply with its statutory duty to register sex offenders released from federal prisons.

8. Establish a standing Indian Country Advisory Committee composed of tribal leaders from across the country who can advise the Department and the Attorney General on the full range of issues impacting tribal governments and Native people.

Department of Interior – First 100 Days

1. Request and advocate for adequate funding for law enforcement, tribal courts, and detention facilities.

2. Modify BIA law enforcement training policies to provide maximum flexibility for law enforcement and detention officer training.

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HONORING THE TRUST RESPONSIBILITY: FEDERAL FUNDING TO TRIBAL NATIONS

BACKGROUND

Trust Responsibility

The federal government's trust responsibility to tribes is one of immense moral and legal force, the result of treaties, solemn agreements, executive orders, and statutes and constitutes one of the most important doctrines of Indian law. When vast tracts of land under the care of sovereign tribes were taken, by exchange or force, the US gave its solemn promise to protect the rights of tribes to govern themselves on their remaining land and to provide for the health, education, and well-being of tribes. This commitment is not a hand-out but a contract. We ask that the President and Congress defend the honor and integrity of this nation and seek justice in the US treaty and trust responsibilities to tribes.

Although American Indians have inherited the challenges stemming from centuries of unjust policies and broken agreements, a promising resurgence in self-government and self-determination has allowed tribes to flourish in ways unimaginable 50 years ago. When tribes are able to operate as governments responsible for their own people and resources, which is the essence of tribal sovereignty, the resulting achievements have led to reversing the poor conditions created by centuries of injustice.

However, for the past eight years under the Bush Administration, federal spending for tribes has declined for programs that directly support strong tribal self-government. The programs at the heart of the self-determination and self-governance policies, like Tribal Priority Allocations (TPA) and contract support costs, have failed to keep pace with inflation, and given some of the major reductions in the 1990s, TPA is below the FY1994 level.

NCAI urges the new Administration to honor its commitments to Indian Nations and provide tribes with the necessary resources for continued progress. NCAI understands that the Administration must make difficult budget decisions this year and must support the most efficient and worthy programs in the federal budget while taking into account efforts to reduce the national deficit. While NCAI appreciates the tremendous pressures on federal spending, the push for fiscal discipline should not come on the backs of the most vulnerable in the United States – those in Indian Country. We ask that the following recommendations be taken closely to heart as the new Administration considers the budgets for the rest of FY2009 and FY2010.

Tribal leaders have highlighted the following areas for meaningful federal investment in Indian Country: a more comprehensive set of tribal budget recommendations will be released in January 2009 during NCAI's ***State of Indian Nations*** address.

Public Safety and Justice

The administration of justice in Indian Country is clearly in crisis. All levels of public safety and justice in Indian Country have been severely underfunded, including police, investigation, prosecution, courts and detention. Across the nation, tribal leaders have called for more resources, making public safety and justice the top priority in budget consultations over the years. Funding for

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investigators and prosecutors at the federal level and for tribal justice programs at the local level has steadily decreased over the past 6 years. Between 2002 and 2007 US attorneys declined to prosecute 62 percent of reservation criminal cases. Funding for tribal public safety and justice programs at the Department of Interior and Department of Justice declined from $262 million in FY 2002 to $255 million in FY 2007. The Bush Administration did not share tribal leaders' priority of addressing the crisis in Indian Country public safety.

As a result of historical underfunding and complex jurisdiction issues, American Indians experience disproportionately high rates of violent crime. According to a February 2008 Centers for Disease Control survey as well as the 2007 Amnesty International report, Indian women experience the highest rates of intimate partner violence in the United States. Moreover, non-Indian criminals and foreign drug organizations have exploited the lack of law enforcement resources and jurisdictional confusion on reservations.

The Department of Justice and Bureau of Indian Affairs simply are not meeting the legal, treaty, and trust responsibilities to provide for the public safety of Indian Country.

Law Enforcement:
Although tribal law enforcement officers have limited authority under federal law, they are often the first responders to reservation crime. Yet, according to the Bureau of Indian Affairs, Indian Country has a 42 percent unmet staffing need for police departments. To put this in perspective, 2,555 Indian country law enforcement officers make up about 0.004 percent of the total 675,734 state, city and county law enforcement officers in the United States, yet they patrol approximately 2 percent of the landmass of the United States and 1 percent of the population.

Detention
In September 2004, the US Department of Interior Inspector General's Office issued a report, *Neither Safe Nor Secure: An Assessment of Indian Detention Facilities*, which outlined the deplorable and life-threatening conditions of Indian jails. The report detailed the stark realities: 79 percent of facilities fall below minimum staffing levels on a regular basis; poorly maintained facilities that provide ample opportunity for escape are common; unusually high rates of suicide, a trend that generally correlates with reduced staff supervision and the influence of drugs and alcohol; and jails dilapidated to the point of condemnation.[6] Another recent 2008 Department of Interior study, called the Shubnum report, confirms that tribal jails are still grossly inefficient. The study finds that only half of the offenders are being incarcerated who should be incarcerated and the remaining are released due to severe overcrowding. It identifies a need to construct or rehabilitate 263 detention facilities at a cost of about $8.4 billion over the next 10 years.

NCAI urges the Administration to include significant increases for BIA law enforcement, tribal courts, and detention center maintenance and construction in FY 2010 and in the future until the gap in law enforcement funding for tribal communities is closed. NCAI also supports maintaining the tribal set-asides at the Department of Justice and increasing funding for tribal courts, police, and jails.

[6] U.S. Department of Interior Inspector General's Office issued a report, Neither Safe Nor Secure: An Assessment of Indian Detention Facilities September 2004

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Health Care

Estimates for FY 2009 indicate that to just maintain current services and mandatory costs, such as pay costs and inflation, would require more than $450 million over FY 2008. In fact, the President proposed $21.3 million below the FY 2008 level for FY 2009. This is despite the fact that IHS spends roughly $1900 per person per year on comprehensive health services, far below expenditures per person by public and private health insurance plans, and half of that spent on federal prisoners. Despite slight appropriations increases, IHS' real spending per American Indian has fallen over time, after adjusting for inflation and population growth. The saying in Indian Country is "don't get sick after June" because there is no money available to help after then, unless it is situation threatening "life or limb."

The House Interior subcommittee included an increase of $250 million for IHS in its markup of the IHS budget. However, the IHS Tribal Budget Formulation workgroup proposed a $781 million increase for FY2009 to maintain current services, fund mandatory costs, and cover staffing of new facilities.

Coupled with the reauthorization of the Indian Health Care Improvement Act, increased funding for Indian health is absolutely critical to Indian Country.

Contract Health Care: Also important to the Indian Health Service is increased funding for contract health services. Tribes and tribal members who are not located in an area served by an IHS Hospital are not able to access the same level of health care as those who are served by a combination of community based and hospital services. These Tribes and Tribal members experience a greater disparity of health care services than other poorly served populations. Indians routinely are referred to many Tribal and non-tribal hospitals with the understanding that the Tribes will pay for the services. The need for contract health care is estimated to exceed $1 billion.

Contract Support Costs: Another critical piece of Indian health care delivery is full funding of tribal contract support costs. Under the Indian Self-Determination Act the United States enters into contracts with Tribes to administer federal trust programs, either through contracts or self-governance compacts, for the benefit of tribal members. Historically insufficient funds have been appropriated to pay government contracts with Tribes, while all other government contracts are fully paid. These funds ensure that tribes have the resources that any contractor would require to successfully manage decentralized programs. In FY 2009, an additional $158 million was required to fund the backlog of Contract Support Costs that are owed to Tribes and to allow for new and expanded Tribal Self-Determination.

These are estimates for the FY 2009 IHS budget, however, the FY 2009 continuing resolution has not addressed the identified needs for IHS and instead funds the agency at the FY 2008 level. NCAI urges the new Administration to reverse the steady erosion of resources for Indian health care and head the calls from tribal leaders to help us address the most severe health care needs of any group in America.

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Education

Effective and culturally relevant educational systems are critical for nurturing strong, prosperous tribal youth and lay the foundation for healthy communities. Over the past few years under the Bush administration, numerous Indian specific programs have been proposed for elimination.

Following are some of the programs tribal leaders have identified as important to the educational achievement of Native students:

Native Languages: The Administration for Native Americans (ANA) administers a grant program in support of Native American languages. NCAI recommends an increase in this program to $10 million in FY 2010.

Impact Aid: The Impact Aid Program provides over $500 million to public school districts with Indian lands. Approximately 95% of American Indian children are educated at these public schools. NCAI recommends increasing Impact Aid funding to the equivalent of FY 2005 levels taking into account inflation, population growth and DOD restructuring activities.

Tribal Colleges: Tribal Colleges provide a wide range of education degrees and programs for Indian communities. In FY 2009, it is estimated that 25,000 individual students were served by these valuable institutions. Tribal colleges are essential to tribal economic development, health care, and developing professionals in Indian Country. NCAI recommends at least 5% increases for the Tribally-Controlled Colleges funding.

Johnson O'Malley (JOM) program: JOM provides supplemental funds to address the unique educational and cultural needs of Native children attending public school. The Bush administration each year has proposed elimination or reduction for this program. NCAI recommends increases for JOM.

Despite the Republican Administration's expressed support for Indian education, it proposed eliminating four Indian specific programs in the Department of Education, which NCAI supports: Alaska Native Education Equity, Education for Native Hawaiians, Strengthening Alaska Native- and Native-Hawaiian-Serving Institutions, and Tribally Controlled Post Secondary Career and Technical Institutions.

Other Priority Areas

Indian Land Consolidation: One of the most disappointing proposed cuts in the Bush adminstration's budget for Indian programs was the proposal to eliminate the budget for Indian land consolidation. Land consolidation is critical for addressing the problem of fractionation, which creates an accounting nightmare for the federal government and enormous difficulties for Indian land owners in putting land to economic use. Land consolidation improves federal administration and management, and saves substantial federal dollars that currently go to tracking tiny land interests. The investment in land consolidation will do more to save on future trust administration costs than any other item in the trust budget.

Over the past decade, even in years when there was little attention paid to land consolidation, the budget always received $8 to $13 million annually. But during the passage of the American Indian

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Probate Reform Act (AIPRA) in 2004, both Interior and the Office of Management and Budget negotiated and agreed to authorizations of $75,000,000 for FY05, $95,000,000 for FY06, and $145,000,000 for each of FY07 through FY10. The increased commitment to land consolidation was a part of the agreement to AIPRA, where tribes and individual land owners have also taken on increased responsibility for land consolidation.

But the increases came for only two years – $34.5 million in FY06 and the same in FY07. The land consolidation funding did a great deal of good in those years, buying back millions of fractionated interests, and the program was scaling up its efforts in anticipation of increased budgets in the future.

A tribal effort at land consolidation will likely not be supported unless there is a commitment from the federal government to do its part in addressing fractionation. **We strongly urge the Administration to return to the levels anticipated under AIPRA, and fund land consolidation at $50 million for FY09 and increased amounts for FY 2010.**

Renewable Energy and Conservation Programs: President Bush requested a substantial decrease for Tribal Energy Activities for FY 2009, which would be funded at $1 million instead of $5.9 million enacted in the FY 2008 budget. The Tribal Energy Activities also would not fund the Office of Indian Energy Policy and Programs. Various renewable energy programs are authorized by Title V as well as by previous Acts of Congress, to encourage conservation and development of alternative energy projects. The renewable program also supports the work of the Council of Energy Resource Tribes (CERT) and its member Tribes in their energy and environmental initiatives. **NCAI urges Congress to fund renewable energy and conservation programs and activities at $8.5 million.**

Indian Energy Guaranteed Loan Program: Title V also authorized a multi-billion dollar loan guarantee program as well as assistance to encourage the development of renewable and non-renewable resources by Indian Tribes. **NCAI recommends $15 million for the Indian Energy Guaranteed Loan Program.**

Tribal Energy Resource Agreements (TERA): The centerpiece of Title V is a new land use approval process under which eligible Indian Tribes can negotiate and execute leases, lease renewals, and other business agreements without the review or approval of the Secretary of the Interior. Authority to enter these agreements, known as TERAs, would first require that the Secretary approve of the Tribe's regulatory, financial, and managerial capacity. **NCAI recommends $4 million to the OIEED for implementing the Tribal Energy Resource Agreements (TERA) regime and for other tribal energy related activities including low-interest loans, grants and technical assistance authorized by the Act.**

Self-Determination

Tribal Priority Allocations: If the President's proposed FY09 budget is enacted, tribes would lose even more of the funding that honors the trust responsibilities in the federal budget to Indian Country. Tribal Priority Allocations would decline 8.3 percent. Over the last decade, TPA remained flat and lost significant ground to inflation and population increases. TPA is one of the most important funding items for tribal governments. Since tribes have flexibility to use TPA funds to meet the unique needs of their individual communities, they are the main resource for tribes to

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exercise their powers of self-governance. **NCAI urges Congress to include at least a 10 percent increase over FY08 levels for TPA.**

Contract Support Costs:
Under the Indian Self-Determination Act the United States enters into inter-governmental contracts with Tribes under which Tribes administer federal trust programs, either through contracts or self-governance compacts, for the benefit of tribal members. In amending the 1975 Act Congress in 1988 observed that the single greatest impediment to successful implementation of the Indian Self-Determination Policy was the consistent failure of the Bureau of Indian Affairs and of the Indian Health Service to pay full fixed contract support costs associated with the administration of transferred programs. Congress recognized that the failure of the BIA and IHS to pay full fixed contract support costs has often led to reductions in trust programs, amounting to partial termination of the federal government's trust responsibility. Historically contract support cost shortfalls have penalized Tribes in the exercise of their self-determination rights under the law. **NCAI requests full funding for CSC at BIA and IHS.**

Appointments Within 30 Days
Associate Director for Native Programs, Office of Management and Budget (OMB). In the past, Administration budgets for Native programs have been organized as subordinate to natural resources budgets. NCAI strongly urges a reorganization of OMB to appropriately prioritize the budget for Native programs. This position is responsible for this reorganization and ensures that OMB budgets and policies provide stable sources of funding for tribal governments so that tribal citizens receive equitable services in the same manner that is found in other jurisdictions throughout the United States. Adequate funding for programs that foster self-determination is paramount.

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IMPROVING TRIBAL SELF-GOVERNANCE
Policy Statement -- Presidential Transition 2009

Expanding tribal self-governance is a top priority of tribal leaders. In 2007, 57% of federally recognized tribes participated in the Tribal Self-Governance program in the Indian Health Service (IHS), representing over $1 billion of the IHS budget. Some 40% of tribes participate in the Department of the Interior (DOI) Self-Governance program, representing over $300 million of the DOI agency budget. These numbers are growing and they reflect that tribal self-governance is one of the most successful federal Indian policies in history. Tribal self-governance shifts control of Indian programs from a monolithic Washington bureaucracy to tribal governments and their elected leaders. Tribes allocate resources and redesign programs to fit their own priorities and needs, while strengthening tribal administrative capacity and management expertise.

While the policy of tribal self-governance has been a great success, improvements are needed on at least three fronts. First, amendments to Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA) must be enacted to make the DOI Self-Governance program at least consistent with that of the IHS under Title V. Second, the new administration must implement the demonstration project authorized by Title VI of the ISDEAA, which would extend self-governance to non-IHS agencies of the Department of Health and Human Services (DHHS).

Title IV Amendments

For several years, a top legislative priority of tribal leaders has been to make permanent, comprehensive amendments to Title IV of the ISDEAA.[7] Most recently, the House Committee on Natural Resources introduced H.R. 3994, the Department of the Interior Tribal Self-Governance Act of 2007. The bill represented five years of negotiation between DOI and tribal representatives. On November 8, 2007, tribal leaders testified in strong support of the bill. Subsequently, following still further negotiation and compromise on the part of tribal representatives, as well as input from House staff, H.R. 3994 was revised to accommodate the DOI's most serious objections. Ultimately this legislation was not enacted by the current Congress, but the groundwork has been laid for the bill to be re-introduced and hopefully enacted early in the next term.

The proposed bill would bring Title IV into line with Title V, creating administrative efficiencies for tribes. Modeled on Title V, the amendments would clarify and limit the reasons for which the agency may decline a proposed agreement, require prompt transfer of funds, protect tribes from unilateral agency impositions of unauthorized terms, and provide a clear avenue of appeal and burden of proof for challenges to agency actions.

[7] In 2004, Title IV amendments much like the ones described below were proposed in S. 1715, the Department of the Interior Tribal Self-Governance Act of 2003, was favorably reported and recommended for passage by the Senate Committee on Indian Affairs. *See* S. Rep. No. 108-413 (Nov. 16, 2004). Unfortunately, the bill died in that Congress.

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The amendments would also clarify that Title IV applies to agreements between tribes and the Department of Transportation (DOT) to carry out the Indian Reservation Roads Program and other DOT programs, thereby extending self-governance to tribal transportation as intended by Congress in SAFETEA-LU.[8]

Title VI Demonstration Project

When Title V of the ISDEAA was enacted in 2000, Congress included a Title VI that directed the DHHS to study the feasibility of expanding self-governance to non-IHS agencies within DHHS. In March 2003, Secretary Thompson submitted the study, which concluded that expanding self-governance was indeed feasible and identified several candidate programs for inclusion in self-governance agreements. A tribal bill that would have enacted a demonstration program to implement the study's recommendations passed the Senate Committee on Indian Affairs in 2003, but died at the end of the session. The proposed legislation has not regained any traction during President Bush's second term.

Self-governance tribes are hopeful that the new administration will help to move this important piece of legislation forward during the 111th Congress. Securing tribes the right to assume non-IHS DHHS programs—such as Temporary Assistance for Needy Families (TANF), Community Services Block Grants, and Headstart—and their associated funding in self-governance agreements would be a major accomplishment.

Conclusion

These are not the only legislative priorities of Self-Governance Tribes. For example, Congress should address the chronic underfunding of contract support costs (CSC) to tribes by lifting the "cap" on CSC spending in the agency appropriations acts and increasing CSC funding. But the Title IV amendments, the Title VI demonstration project, and the diabetes amendment would enhance tribal self-governance in both the short and long terms at virtually no cost to the Government.

Self-governance has dramatically improved the efficiency, accountability and effectiveness of programs and services for many tribes and their members. We urge the new administration and the 111th Congress to undertake the measures described above to enhance and extend self-governance.

[8] *See* 23 U.S.C. § 202(d)(5) (tribes and DOT to enter agreements "in accordance with the [IDEAA]").

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DEPARTMENT OF HOMELAND SECURITY & TRIBAL GOVERNMENTS

Policy Statement -- Presidential Transition 2009

BACKGROUND

As independent sovereign governments, Tribes have the same responsibilities for the public safety and security of their community as state or local governments. Nearly forty Tribes are located on or near the U.S. international borders with Mexico and Canada. Hundreds of other Tribal governments are the only major governmental presence in rural and isolated locations, serving as the first and often only responders for their Native and non-native communities. Tribal governments have broad emergency and first responder responsibilities, as well as extensive border responsibilities with immigration and smuggling implications, all integral aspects of homeland security, and the Department of Homeland Security has not addressed these responsibilities and obligations effectively.

Tribes are First Responders. In many Tribal jurisdictions Tribal emergency responders are the only emergency response entity for both the Tribal and non-tribal community, this includes firefighters, law enforcement, and medial emergency response. Many Tribes have built significant emergency management infrastructure with highly trained personnel, and actually contract to support their non-Native surrounding communities. A number of Tribes have their own departments of Homeland Security or Emergency Response. In addition to preparing for basic first responder duties, Tribes also prepare their communities for incidents such as pandemic outbreaks.

Tribes Protect Extensive Critical Infrastructure. There is significant vital infrastructure located on and near Tribal lands including national communications network systems, highway and rail lines, dams, power transmission stations and relays, oil and natural gas pipelines, dams, military defense facilities and operations. The Fort Berthold Indian Reservation has several Minuteman missile launch facilities located within its exterior borders as a strategic element of the homeland security system. The Grand Coulee Dam is the largest electric power producing facility in the United States and is situated within the Colville Indian Reservation. The Mdewakanton Dakota at the Prairie Island Indian Community is bordered by a nuclear power reactor. Reservations in Oklahoma host a number of critical oil pipelines.

Tribes Protect The Border from Drug & Immigration Smuggling. Approximately 40 Tribes are on or near U.S. international borders; many are in very remote areas of the border. For the past decade, the U.S. federal border enforcement strategy has resulted in funneling illegal immigration and drug smuggling into more remote areas. Unfortunately those "remote" areas are often Indian reservations. The substantial increase in the flow of people and drugs, and the subsequent increase in crime and property damage, has been very difficult for Tribal law enforcement and Tribal communities to address with already limited resources. There has also been an irreversible destruction of cultural and religious sites, and adverse environmental impacts to tribal lands.

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NEEDED REFORMS

Increase Consultation and Coordination with Tribal Governments. The DHS is one of the only federal agencies not in compliance with Executive Order 13175 which requires each agency to have a formal consultation policy in place. There is no permanent Tribal liaison in the Office of the Secretary, resulting in inconsistent decisions among the various DHS arms with regard to Tribes. There are dozens of provisions in the various DHS authorizations that mistakenly categorize Tribes as "local governments" and therefore set the wrong legal framework for the federal-Tribal relationship for which DHS has responsibility.

Directly Empower Tribal First Responders. Largely because of the erroneous categorization of Tribal governments as "local" governments in DHS's authorizations, DHS has set up an inappropriate infrastructure whereby tribes are deemed subsets of state governments for most purposes. Not only is this erroneous, it is ineffective. DHS has essentially delegated homeland security oversight to state governments that have little incentive and no legal responsibility to ensure the security of tribal communities. Tribes do not want to be a gaping hole in the nation's homeland security infrastructure.

Currently Tribes must apply for nearly all DHS grants and programs through state governments. This is unacceptable. Tribal governments should be able to apply directly to and deal directly with DHS. Some of these changes are legislative, but many of them are administrative. DHS has misinterpreted the one grant tribes have been successful at ensuring direct access, the SHSGP. The statute requires that "at least" (or a minimum) of 0.1% be made available for tribes. DHS, however, has been implementing this as a ceiling, with a maximum of 0.1% made available

In addition to the difficulties in accessing funds directly, tribes have been struggling with direct authorities as well. Specifically, tribes need the ability to directly seek Presidential disaster declaration. Currently tribes are forced to go first to the state governor. Not only do tribes and states have a historically acrimonious relationship, states have a disincentive to submit a request for land for which they do not have responsibility. Disasters occurring on tribal lands, in most instances, that are catastrophic to tribal communities will not meet the damage threshold of a state formula that is set by FEMA. Also in situations where a county consists of tribal and non-tribal lands, if only the tribal lands are impacted by a disaster, the county will not necessarily seek a declaration from the governor due to administrative and matching cost requirements. More often than not, tribes are left stranded with no FEMA assistance for major natural disasters.

Create Uniformity in DHS's Acceptance of Tribal Governmental Identification. There is no consistent agency-wide recognition of tribal governmental identification. TSA accepts tribal IDs for domestic air travel as long as they have a photo (but they have not yet put this into regulations). The Western Hemisphere Travel Initiative (WHTI) accepts tribal IDs for international land border crossing purposes, as long as they have met certain security requirements. But the REAL ID regulation team inadvertently left tribal ID cards off the list of ID for obtaining a state drivers license. DHS's inconsistent rules have the perverse effect of allowing Tribal members to fly domestically and travel internationally (by land) with their tribal ID, but may not use tribal ID to acquire a state driver's license. This oversight can be fixed administratively.

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ECONOMIC DEVELOPMENT AND TAXATION IN INDIAN COUNTRY
Policy Statement -- Presidential Transition 2009

As tribes have increased their economic development efforts, they have increasingly developed issues with dual taxation and with the Department of the Treasury and the Internal Revenue Service. On a range of issues from tax exempt bonds, to pension plans, to benefits provided to tribal members, the Bush Administration failed to provide policy guidance and allowed the IRS Audit Division to dramatically expand review and enforcement in ways that are unfair and detrimental to Indian tribes. A new Administration has an important opportunity to clarify the tax treatment of Indian tribal governments in several contexts and to develop new sources of tax revenue that will provide funding for tribal services and infrastructure.

Problem of Dual Taxation in Indian Country

The Supreme Court's rulings on state taxation of sales between Indian sellers and non-Indian buyers are complex and the source of many misunderstandings. The Supreme Court has held that state governments can collect excise taxes on sales of imported products that occur on tribal lands to non-tribal members, *so long as the tax does not fall directly on the tribal government or a tribal member or does not burden revenues derived from value generated on the reservation by activities in which Indians have a significant interest.* At the same time, tribal governments retain their right to tax all sales within the reservation, whether to members or non-members.[9] There is frequent litigation between tribes and states over the fairness and interpretation of these common law rules, which have remained static while tax systems have changed dramatically.

The Supreme Court rulings result in the inequity of dual taxation where the collection of a state tax effectively prevents the tribal government from implementing its own tax, because the double taxation would drive business away from the reservation. On most reservations tribal members must go off reservation to purchase goods and services. The state gets all of those taxes, and it is estimated that as much as 80% of tribal members' incomes are spent off-reservation. When a non-Indian comes on reservation, the state gets that tax as well. Tribal governments are left with few viable options for raising tax revenue.

Just like state governments, tribal governments provide a broad range of services and must develop a source of tax revenue if they are to move away from dependence on inadequate federal funding. There must be consideration given at the Executive level about addressing the problem of dual taxation in Indian Country. There are models at the state level that should be considered for a national policy. For example, the State of Nevada by statute does not collect a state tax if the tribe taxes as the same or higher level.[10] This is the primary source of revenue for many Nevada tribes. This model is being replicated in other states. A solution like this provides tribal governments with a critical source of tax revenue, does away with the problem of dual taxation and supports tribal infrastructure development and tribal programs.

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[9] See *Moe* v. *Confederated Salish and Kootenai Tribes of Flathead Reservation,* 425 U.S. 463 (1976); *Washington* v. *Confederated Tribes of Colville Reservation,* 447 U.S. 134 (1980).

[10] Nevada Revised Statute 370.0751.

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As with state governments, dual taxation on internet sales is also increasingly a problem for tribal governments. The Administration should strongly support the tribal provisions in S. 34, the Sales Tax Fairness and Simplification Act.

Disparate Treatment Concerning Tax Exempt Bonds

Current IRS interpretation of the Internal Revenue Code unfairly limits tribal government access to tax exempt bond financing in a way that hurt tribes ability to build infrastructure and create jobs. The IRS audit division has adopted a strict interpretation of an "essential government function" test without any written guidance that has destroyed the market for tribal tax exempt bonds. As a result, tribes are barred from issuing bonds for projects that are identical to state and local governments development projects.

The Administration could readily improve the economic development conditions in Indian country by adopting an interpretation of the "essential government function" "to include any function which is performed by a State or local government with general taxing powers."[11]

Impermissible Treatment by the IRS of Indian Tribal Benefit Programs

During the Bush Administration, the IRS has initiated 139 audits that focus specifically on the use of tribal gaming revenues to provide benefits to tribal members such as health care and education. In a letter to the Senate Finance Committee, the IRS has identified such tribal benefit programs as "problematic tax avoidance schemes." This is a grossly inequitable policy that treats tribal benefits programs differently from federal and state government benefit programs.

Under the Indian Gaming Regulatory Act, (IGRA), gaming proceeds may be used for several authorized purposes, including the funding of tribal government operations, the general welfare of the tribe, and per capita payments to tribal members.[12] Per capita payments are subject to federal income tax. Indian tribal governments have a long history of sponsoring general welfare programs, such as housing assistance, food cards or banks, educational assistance, health coverage and death benefit programs. These programs were introduced to address the harsh conditions resulting from decades of poverty and as general welfare programs similar should not be subject to federal tax.

The IRS is now characterizing tribal benefit programs as tax-avoidance or tax-deferral schemes. The programs that the IRS is targeting include housing programs, disaster relief, educational programs, water & sewer, and tribal health care reimbursement programs.

The IRS has stated two reasons for justification in evaluating the tax consequence of a program payment as: (1) whether the payment is specifically excluded under a particular provision of the Internal Revenue Code, and (2) whether the payment qualifies for exclusion under the General Welfare Doctrine of federal tax law. The IGRA reference to the use of profits for "general

[11] The 110th Congress saw legislation which sought to apply a legislative fix, The Tax Exempt Bond Parity Act, S. 1850 and H.R. 3164.
[12] 25 U.S.C. § 2710(b)(2)(B).

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welfare of the tribe its members" has been deemed by the IRS as inconsistent with the General Welfare Doctrine.

This interpretation by the IRS is especially problematic when applied to tribal health plans. The Internal Revenue Code excludes employer provided medical benefits from the gross income of employees. The IRS has determined this does not extend to medical benefits provided by an Indian tribe to its members. The IRS has determined that tribal health program payments are excluded from taxation only if they meet the requirements of the General Welfare Doctrine or are otherwise excludable. The IRS cited that tribes are "ahead of the rest of the world," with regards to governmental provided medical coverage.[13] Indian tribal governments have historically been involved in the provision of medical services because the federal government has largely failed to meet its federal trust responsibility in that arena.

The Administration should support tribal benefit programs as an aspect of tribal self-government instead of penalizing tribal governments for providing services to tribal members. The Administration should use its discretion to allow tribal governments to use gaming profits to provide benefits programs without onerous tax consequences.

Pension Protection Act Fix

The section 906 tribal provisions of the Pension Protection Act of 2006 create a false distinction among types of tribal employees that is unmanageable for federal regulators and tribal employers. The law created new language that forces tribes to carry two or more pension plans and distinguish between "essential government" and "commercial" activities. The language amends IRC 414(d) and ERISA 3(32) to create an unjustified standard which does not exist for state or local governments. In light of the new provisions, tribal employers must now distinguish among their employees and face uncertain oversight making it more difficult to provide pension benefits to its employees. Perversely, the new provisions could harm employees by creating incentives for tribal governments to eliminate their employee entirement plans.

Both the House and Senate offered bills to amend the current language during the 110th Congress. NCAI strongly urges the new Administration to support this legislation and eliminate the disparate treatment of tribal government pension plans.

Indian Tribal Governments Office at the IRS

The IRS includes the Indian Tribal Government Office but this office is advisory and lacks authority over policy and enforcement. In large measure, tribes have been left without policy guidance on tax matters while facing an increasingly active audit division that is specifically targeting tribal governments. Staffing and organizational considerations must be developed within the IRS to ensure that policy and interpretation issues are addressed outside of the enforcement context, and to ensure knowledge of federal Indian policy provisions and the government-to-governnment relationship.

[13] Statement of Kenneth Voght, senior Manager in IRS's Office of Indian Tribal Governments at the 2008 Annual Conference of the Native American Finance Officers Association, Chicago, IL, September, 2008.

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PROTECTING SACRED PLACES
Policy Statement -- Presidential Transition 2009

NCAI is deeply concerned with the respectful treatment and the protection of Native American sacred landscapes. Historically subjected to the devastating systemic destruction of our religious practices and places, we continue to suffer the heartbreaking loss and destruction of our precious few remaining sacred places.

The American Indian Religious Freedom Act (AIRFA) was enacted into law 30 years ago, in 1978, and states that "it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites." However, 20 years ago, in 1988, the Supreme Court ruled that neither AIRFA nor the U.S. Constitution provides a cause of action for Native Americans to defend their sacred places in court. The high court also stated that Congress would need to enact a statute for that purpose, but Congress has not enacted a statutory right of action for tribes to protect their sacred places and site-specific ceremonies.

In two recent decisions, courts have ruled that the Religious Freedom Restoration Act does not protect Native American religious interests at the San Francisco Peaks or Snoqualmie Falls. Other legal instruments -- such as AIRFA, the Executive Order on Sacred Sites (EO 13007), the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA) -- often are ineffectively implemented and provide limited legal redress to aggrieved traditional religious practitioners and tribes.

Year after year, sacred landscapes that are integral to the exercise of Indian religions are being destroyed and are under threat by development, pollution, recreation, vandalism and other public and private actions. There is no comprehensive, effective policy to preserve and protect sacred places.

Protecting sacred places is necessary for the survival of traditional religions, cultures and lifeways and our identity and status as sovereign nations. We Native Peoples are required by the tenets of our traditional religions to protect the physical integrity of these places and we call on others to remove legal and other barriers that stand in the way of our spiritual duty of care and protection. We insist on our access to these landscapes, where appropriate and necessary to our lifeways. We seek public understanding and agreement that one use of a place may be not to use it and that some of these places are geophysically delicate and may not support non-cultural usage.

Here are action steps that are needed at this time to protect Native American sacred places:

- **Enact a statutory right of action for tribes to defend sacred places**

Today, there is no federal statute for the express purpose of protecting Native American sacred places. It is time for Congress to enact a right of action for tribes to defend sacred places. Unless tribes can sustain lawsuits, they will not have a seat at federal negotiation tables and agencies and developers will continue to disregard existing consultation requirements. Meaningful consultation

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and respectful negotiations can obviate the need for litigation. However, if negotiated accords cannot be reached, tribes must be able to protect their holy places in court.

- **Update Executive Order 13007 and all consultative instruments**

Executive Order 13007 needs to be updated to assure that Native nations have sufficient, ongoing and meaningful opportunities to consult and participate in federal planning and decision-making processes that may affect Native American sacred landscapes and site-specific ceremonies. EO 13007 does not include a cause of action and any codification of it needs to include a specific right of action for legal protection of Native American sacred places. The federal government has failed to assure adequate nation-to-nation dealings with tribes regarding sacred places and needs to begin by updating and strengthening all its tribal consultative instruments.

- **Evaluate and implement specific sacred places policies**

Federal agencies, in consultation with tribal and religious leaders, should evaluate and implement, to the maximum extent possible, policies that would: 1) transfer sacred and culturally significant landscapes back to the tribes with a cultural affinity to them; 2) develop co-management and co-stewardship agreements with tribes to manage areas of religious and cultural importance; 3) prevent development (through withdrawal or other mechanisms) of areas of cultural sensitivity that are located on public lands; and 4) maintain the confidentiality of information pertaining to culturally sensitive places.

- **Establish policy for cultural surveys prior to transfers and permits**

Establish a federal policy to assure that, prior to any transfer or any issuance of permits, a cultural survey is undertaken in consultation with tribes as part of the initial stages of any federally-mandated identification process. This process must affirm the inherent rights of access to and protection of Native Peoples' historic, cultural, holy and sacred places; cultural patrimony; and our ancestors.

- **Strengthen the Native American Graves Protection and Repatriation Act**

The Native American Graves Protection and Repatriation Act (NAGPRA) needs to be strengthened in several ways. First, NAGPRA's definition of "Native American" needs to be technically clarified and returned to its original intent by adding the following italicized words to the existing definition: "Native American" means of, or relating to, a tribe, people, or culture that is *or was* indigenous to *any geographic area that is now located within the boundaries of* the United States. Second, NAGPRA needs increased penalties for violations of burials and burial grounds, human remains and cultural items. Third, NAGPRA needs to be specifically strengthened with tools for improved law enforcement and prosecutions.

- **Protect burial places and ancestors from current threats**

Burial places are also sacred places. At present, there are entities subverting existing laws designed to protect our burial places and our ancestors. These entities include, for example, prominent universities in the University of California system and other federal and federally-assisted educational institutions, museums and agencies. Vigorous enforcement of existing laws and maximum penalties are needed to address these ongoing violations of law, including the failure to recognize the rights of the historic tribes in California, which tribes have standing under the repatriation laws.

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- **Appoint Native people to federal land-managing decision-making entities**

Many of the federal land-managing agencies' decisions affect sacred landscapes, tribal ceremonies and the cultural well being of Native people, but Native people do not sit on the key federal land-management committees, boards and panels which make those decisions. Native Americans need to be appointed to those bodies that make and drive policies and decisions in the federal land-managing agencies, especially those that may affect sacred places and site-specific ceremonies.

- **Use and strengthen existing administrative policies and regulations**

Many federal officials have failed to use existing administrative policies and regulations to protect sacred landscapes or to accommodate the ceremonial use of sacred places by tribes, moieties and traditional practitioners. Any policies and regulations that are deemed inadequate for these purposes need to be strengthened, in full consultation with tribes, religious leaders and traditional practitioners. Federal land managers need to provide the means for scientific and cultural experts, as well as other assistance to tribes in the consultative process.

- **Establish discrete processes for sacred places trust easements**

Establish discrete processes for tribes to obtain and hold trust easements to provide access to and protect the physical integrity of sacred places and viewscapes located on public and private lands. Public officials, in consultation with tribes, moieties and traditional practitioners, need to develop co-management or joint stewardship agreements, as well as practical economic incentives for private land owners to enter into sacred places easements. Tribes, moieties and traditional practitioners need to be provided with the means and assistance to obtain and hold easements. The public process must be discrete, efficient and timely, and the Bureau of Indian Affairs process must allow cultural easements in the fee land to trust land process, which it does not do now.

(Note: The NCAI tribal leadership has adopted resolutions which support the action steps above, including Resolution BIS-02-043, *Sacred Lands*, at the Mid-Year Conference, June 2002 in Bismarck, ND, in support of legislation that furthers the protection of sacred lands and sacred places; and Resolution SD-02-027, *Essential Elements of Public Policy to Protect Native Sacred Places*, at the Annual Convention in November 2002 in San Diego, CA.)

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Indian Energy in the Next Administration
Policy Statement -- Presidential Transition 2009

The White House and Federal Agencies must consult fully with the Indian tribes on energy production on tribal lands, conservation and energy use in Indian communities, climate change, and energy efficiency. Along with the NCAI, the primary entity to ensure such consultation will be the Council of Energy Resource Tribes (CERT) based in Denver, Colorado. CERT is launching a multi-pronged effort to insure input from Indian tribes into a coherent and forward-looking Indian energy policy that will mesh with, and complement, the national energy policy developed in the coming years. The goal is to maximize tribal perspective and tribal input.

The new Administration should encourage tribal ownership and development of tribal resources in order to maximize returns to tribal economies. The tribal energy resource agreement (TERA) process is underway at the Department of the Interior and should be fully supported.
Indian lands have about 20-30 percent of the on-shore oil and gas resources in the United States. If the new Administration wants to increase domestic production to achieve energy independence, it must factor in the development of these resources on Indian lands. There are significant impediments to production that must be resolved, including tax policies and lack of physical infrastructure.

The Administration should explore with tribal governments the vast potential renewable resources on Indian lands that have the potential bring significant economic benefits to tribal communities through increased revenues and creation of jobs. Energy efficiency and conservation policies, particularly in federal-funded facilities and homes on Indian lands, need immediate attention.

When changes to the IRC are considered, new energy tax policies must consider impacts on energy projects on tribal lands. The Administration must ensure the Indian tribes may participate in any carbon regime that is put in place and that tribal energy development is not hobbled by new standards that may be overbroad with respect to Indian lands.

Much of the nation's developable uranium ore deposits in the United States are on Indian lands. Uranium-rich tribes are not per se opposed to nuclear projects but need full guarantees by the United States of mining safety and freedom from contamination. The Administration also needs to assist in addressing significant, unresolved legacy issues on Indian lands from earlier uranium mining activities.

Indian lands are often traversed by major energy transportation routes in the West and host major transmission and pipeline infrastructure. Tribes need to fully participate in the development and management of future transmissions lines and electricity grids that cross tribal lands.

Finally, the new Administration should participate with tribes in a Congressional Workshop early in the 111th Congress to inform Congressional members and staff of the national benefits to be derived from the recommendations for national energy policy contained in NCAI Resolution PHX-08-040.

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Environmental Protection for Indian Country and Alaska Native Villages
Policy Statement -- Presidential Transition 2009

1. Background

The environmental conditions on some tribal lands and waters are severe. Tribal peoples are disproportionately exposed to harmful contaminants. In 2002, EPA regions reported 602 hazardous waste sites on or impacting Indian country, and 55 National Priorities List (NPL) sites or equivalent sites impacting 50 tribes. 13.1% of tribal homes lack access to safe water and basic sanitation. Over a thousand open dumps exist across Indian Country. Conversely, while 96% of tribes have at least an environmental director, less than 5% of tribes actually implement at least one federal program. Tribal and federal implementation of environmental programs on tribal lands must be significantly improved to protect human health and the environment.

2. The Request: Implement EPA's 1984 Indian Policy

In 1984, EPA became the first federal agency to establish an Indian Policy.[14] That policy, affirmed by every EPA Administrator, continues to be one of the most thoughtful, farsighted, and effective documents in establishing respectful relationship between a federal agency and the tribes. NCAI urges the next EPA Administrator to not only affirm EPA's Indian Policy, but make a meaningful commitment to implementing its principles across the panoply of environmental acts. It is also through these principles that tribal environmental needs can be identified and solved.

a. Barriers to Program Implementation

i. Program Delegations and Approvals

Under Principles 2 and 3 of EPA's Indian Policy, the Agency recognizes "tribal governments as the primary parties for setting standards, making environmental policy decisions and managing programs for reservations," and commits to "take affirmative steps to encourage and assist tribes in assuming regulatory and program management responsibilities for reservation lands."

Tribal regulatory and program management for reservation lands obtained through what is known as EPA's "treatment in a similar manner as a state" (TAS) process, can be thought of as the apex of the tribal environmental protection for their lands, and a significant expression of tribal sovereignty. However, TAS approvals lag significantly behind their state delegable equivalents, a circumstance that becomes increasingly unacceptable for programs in existence since the early 1970s. The table below illustrates the gulf between EPA-approved state and tribal delegations for a sample of delegable programs.

[14] http://www.epa.gov/tribalportal/pdf/indian-policy-84.pdf (accessed Nov 4, 2008).

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	Clean Water Act, National Point Source Discharge Elimination System	Safe Drinking Water Act, Public Water System Supervision	Clean Air Act, State or Tribal Implementation Plan	Resource Conservation and Recovery Act, Hazardous Waste
State delegations/ # of states (2007)[15]	46/50	49/50	50/50	48/50
Tribal delegations/ # of tribes (2008)[16]	0/562	1/562	0/562	0/562

Under EPA's most successful TAS program – water quality standards (WQS) under Clean Water Act (CWA) Section 303 -- 39 tribes have received TAS authority as of June 2008. The CWA, promulgated in 1972, clearly contemplates WQS for all of the waters in the United States, as it is the primary building block upon which many other CWA programs are based. That only 39 tribes have reached this "first step" 36 years after the enactment of the CWA, is unacceptable. Furthermore, the number of TAS approvals for aspects of other environment acts decline significantly after WQS, for example, 9 TAS approvals under Title V of the Clean Air Act, and 1 TAS approval for Public Water System Supervision under the Safe Drinking Water Act.[17] Many obstacles contribute to the lack of EPA delegations or authorizations to tribes, including: the lack of adequate and consistent funding for tribes to build the capacity to assume and implement TAS authority; opposition by states or non-members living within reservations to tribal assumption of regulatory authority; federal acts and statutes barring tribes in the states of Alaska, Oklahoma and Maine from exercising environmental regulatory authority; and statutory omissions or limitations regarding the use of TAS provisions in certain environmental acts such as RCRA, CERCLA, and FIFRA.

Principle 4 of EPA's Indian Policy states that "[t]he Agency will take appropriate steps to remove existing legal and procedural impediments to working directly and effectively with tribal governments on reservation programs." Thus, NCAI urges EPA leadership at the highest levels to engage in a comprehensive and strategic dialogue with tribal leaders and intertribal consortia with the aim of achieving the fullest possible expression of tribal regulatory authority over their lands, through the removal of barriers to tribal assumption of regulatory authority for environmental programs delegable to states and tribes, and where significant limitations prevent such federal and tribal regulation, to EPA and tribal oversight of state environmental management of tribal lands to the fullest extent possible.

ii. EPA's Direct Implementation Responsibility

Principle 3 of EPA's Indian Policy also states that "[u]ntil Tribal Governments are willing and able to assume full responsibility for delegable programs, the Agency will retain responsibility for managing programs for reservations." EPA has direct implementation (DI) responsibility

[15] http://www.ecos.org/section/states/enviro_actlist (accessed Nov 4, 2008).
[16] Table of TAS approvals provided by EPA's American Indian Environmental Office (September 2008).
[17] Id.

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under a host of environmental statutes, a responsibility EPA exercises on a discretionary basis. However, when the fundamental barriers to the tribal regulatory assumption of such programs are clear, demonstrable, and protracted, when serious environmental problems on tribal lands persist, and when resources to EPA's DI responsibilities for environmental programs are not committed, the discretionary nature of this responsibility becomes increasingly untenable. Consistent with Principle 3 of EPA's Indian Policy, NCAI urges EPA leadership to engage in a comprehensive and strategic dialogue with tribal leaders and intertribal consortia to ensure the provision of significant resources for EPA's direct implementation responsibilities to tribes. NCAI asks that the following programs be considered immediately for possible action, as EPA and the tribes have already attempted or made inroads in these DI programs:

- The promulgation of federal core water quality standards in Indian Country on a national, regional, state, or watershed basis;
- The replication of the Federal Air Rule for Reservations, currently applicable to tribes in the States of Washington, Oregon, and Idaho, across the country;
- Continued support for the US commitment made at the 2002 World Summit on Sustainable Development and through concomitant interagency MOUs of reducing tribal lack of access to safe drinking water and waste water infrastructure by 50% by the year 2015, as s step towards the overall federal goal stated in 25 USC § 1632(a)(5) of providing this infrastructure to all tribal homes as soon as possible;
- Commitment towards the elimination of the open dumps across Indian Country through increased funding, support for tribal initiatives, and enhanced federal and tribal enforcement authority against violators;
- Permanent authorization of the statute authorizing the use of Direct Implementation Tribal Cooperative Agreements (DITCAs), and dedicated and permanent set-aside funding for this mechanism for use across a variety of environmental activities; and
- Examination of EPA programs and activities which could be more appropriately managed by Tribes under the Indian Self-Determination and Educational Assistance Act.

b. Tribal Capacity and Funding

Mindful of the current national economic situation, it is important to note that EPA funding to tribes has historically not been equitable compared to states, nor commensurate with tribal needs. For example, whereas billions of dollars provided to states in the 1970s to build the capacity to undertake major environmental acts, the Indian Environmental Governmental Assistance Program (GAP) was not established until 1994, with only $8.4 million for the 560+ federally recognized tribes. GAP funding, critical for many tribes to simply fund the establishment of a tribal environmental department, has leveled off over the past several years at approximately $57 million, or approximately $100,000 per tribe.

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In another example, 13.9% of tribal homes lack access to safe drinking water and waste water infrastructure, compared to less than 1% of homes nationwide, yet tribes are limited to 1.5% set aside in the Clean Water and Drinking Water State Revolving Funds. Indian Health Service, to whom EPA passes through much of the tribal set-aside to construct such facilities, estimates that over $57 million more is needed per year, if tribal lack of access is to be reduced by 50% by the year 2018.[18]

Thus, EPA's National Tribal Caucus, when asked in recent years to participate in mandatory budget cutting exercises, consistently responded that there were no places for cuts in the tribal budget. Tribal environmental needs are already vast, and the existing funding is inadequate. Tribes consistently demonstrate resourcefulness and innovation with current funding. Parts of previous budget cycles have respected these facts and sentiments.

Consistent with Principles 5 and 9 of EPA's Indian Policy, and given potential stagnation or reductions in federal funding, NCAI urges: that current funding levels for all tribal environmental programs at minimum be maintained; that EPA work with the tribes to identify flexible and creative uses of existing funds; and that EPA work with tribes to identify and increase access to, funding sources for which tribes currently have no or limited access.

[18] Indian Health Service, "Marginal Cost Analysis" prepared for the Office of Management and Budget (2006).

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NCAI Policy Statement on Climate Change
For the 2009 Presidential Transition

INTRODUCTION

The Intergovernmental Panel on Climate Change (IPCC) finds that "Indigenous peoples of North America and those who are socially and economically disadvantaged are disproportionately vulnerable to climate change."[19] Among the most climate-sensitive North American communities are those of indigenous populations (sic) dependent on one or a few natural resources. Many reservation economies and budgets of indigenous governments depend heavily on agriculture, forest products and tourism. [20] The IPCC also finds that "the most vulnerable industries, settlements and societies are generally those in coastal and river flood plains, those whose economies are closely linked with climate-sensitive resources, and those in areas prone to extreme weather events . . . ." [21] Nearly all tribes fit into one of those categories, and nearly all Alaska Native Communities fit into all three.

The Alaska Native Villages of Newtok, Kivalina and Shishamaref must be relocated imminently because of rapidly eroding shorelines, with 181 other villages facing the same threat in coming years. Tribes in the continental United States heavily dependent on natural resources for cultural and economic vitality, are witnessing the disappearance of those resources. EPA predicts that the next 40 to 80 years will witness upwards of a 50% loss of salmon and trout habitat across the U.S, species that an overwhelming number of tribes rely upon for survival.[22] Tribes in Great Plains must travel longer distances to find native plants, such as chokecherry and wild turnip that they utilize for subsistence and medicinal purposes.[23] Tribal economies, cultures, lifeways, knowledge, and identity[24], are directly threatened.

At the same time, many Native communities are proactively addressing climate change, demonstrating great resilience and providing unique knowledge and practices to and beyond tribal communities. A handful of tribal governments are developing adaptation plans, calculating their carbon footprints, collaborating with states, local governments, undertaking renewable energy projects, building green communities, and participating in carbon markets. Tribal peoples are sharing their traditional knowledge with other tribal peoples, providing invaluable

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[19] Intergovernmental Panel on Climate Change, Working Group II Report, *Impacts, Adaptation and Vulnerability*, Ch. 14, p. 639 (Fourth Assessment Report, 2007).
[20] Id., Ch. 14, p. 625.
[21] *Id.*, Summary for Policymakers, p. 12.
[22] Steve Torbit, National Wildlife Federation, "Impacts of Climate Change on Tribal Resources," at www.tribalclimate.org/GreatLakes, (accessed Oct. 8, 2008).
[23] Garrit Voggesser, National Wildlife Federation, *Limiting the Impacts of Energy Development on Cultural and Environmental Resources*, at www.tribalclimate.org/NewMexico.html (accessed Oct. 8, 2008).
[24] While there is no official definition of "indigenous," the United Nations has developed an understanding of the term based on the characteristics which include a strong link to territories and surrounding natural resources, and a resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities United Nations Permanent Forum on Indigenous Peoples, Fact Sheet, *Who are Indigenous Peoples?* http://www.wipce2008.com/enews/pdf/wipce_fact_sheet_21-10-07.pdf) (2008) (accessed Oct. 8, 2008). Thus, significant degradation of indigenous natural resources and environments threatens the distinctive character of indigenous peoples.

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insights to scientific efforts to understand climate change, and reviving ancestral practices that are time-tested, climate resilient, therefore inherently effective adaptation and mitigation techniques. However, significant resources are needed to propel the momentum.

In this context, the tribal effort to address climate change in partnership with the federal government has three aspects: 1) adaptation to climate change, 2) mitigation of climate change, and 3) preservation of tribal lifeways. Interwoven across these aspects are three themes: 1) tribal participation in and consultation on the development of federal climate change policies and programs, 2) protection of tribal sovereignty and rights, and 3) establishment of climate change regimes within which tribes are provided opportunities that are equal to states, remove barriers to tribal access, and/or address unique tribal needs. The Tribes look forward to the full and active partnership with the federal government as sovereign partners in meaningful federal climate change actions, including significant reductions in the nation's greenhouse gas (GHG) emissions, the establishment of a national cap and trade system for carbon emissions, incentives for renewable energy and green jobs, and resources towards adaptation efforts.

THE REQUEST

General Principles

Government to Government Partnership and Consultation. Tribal governments must be provided formal participatory roles in the various federally-led task forces that will develop and implement agendas, strategies, policies, and programs on climate change, including development of a national adaptation and mitigation strategies.

Protection of Tribal Rights. Tribal rights, such as rights to water, hunting, fishing and gathering that are embodied in treaties, executive orders and other legal instruments, must be advanced and protected as climate change impacts water, land use, and natural resources.

Equity in Federal Programmatic Support. Federal climate change programs that can help tribes address climate change must be enhanced, amended or created, so that tribes are provided opportunities that are least equal to those provided to states and others, tribal barriers to access are removed, ensure that support that is commensurate with the severity of impact, and/or address unique tribal needs. This includes existing federal programs that will be impacted by climate change, such as for tribal infrastructure and natural resource management, and new programs to help tribes develop climate change adaptation plans, participate in the carbon market and renewable energy.

Adaptation

Sovereignty. Tribes must ***participate as sovereigns*** in the climate change research undertaken various organizations such as the US Climate Change Science Program, US Climate Change Technology Program, and Intergovernmental Panel on Climate Change, and relevant Science and Technical Advisory Boards.

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Planning. Tribes must be included as active participants , and be consulted upon federal efforts to develop a ***National Adaptation Strategy***, as well as subsequent federal action plans developed on regional, media, and other levels. Tribes should be provided direct financing and technical assistance to develop adaptation plans for their peoples, lands, and natural resources, calculate carbon footprints, and participate in collaborative planning efforts.

Implementation. The federal government should create a ***National Adaptation Fund*** to reduce vulnerabilities across the nation related to climate change and its impacts. Specific set asides should be provided for tribal governments across all applicable areas, that are similar in scope to those received by state governments, and/or are commensurate with the severity of climate change impacts. The federal government should ensure the ***safe relocation of residents of Alaska Native Villages*** with the prior and informed consent of the residents. Adequate funding must be ensured, and barriers to funding which are GAO identified, removed.

Existing federal programs that will now account for climate change impacts, for which tribes have or should have access, must be improved in various and innovative ways, with the goal of creating climate resilient, sustainable, and economically vibrant tribal communities. Most tribal governments have buildings, infrastructure, and government services that are already underfunded and undercapitalized.[25] Climate change strategies can provide innovative opportunities in these programs. For example, the construction of housing on tribal lands can be coupled with green building standards and materials, energy efficiency appliances, and small scale renewable energy sources.

NCAI has identified various federal agencies and programs of relevance, but for the time being mentions the following areas for consideration: safe drinking water and improved sanitation; water storage and conservation; land use and natural resources; insurance; disaster preparedness and response; public health action plans; air quality, water quality and disease surveillance; standards and planning for housing, roads, rail and other infrastructure; energy transmission and distribution infrastructure; energy efficiency; and agricultural practices. Improvements include the provision of equitable funding to tribes, funding commensurate with impacts, removal of tribal barriers to access, increases in funding and technical assistance to address the added component of climate change, and meaningful tribal participation and consultation in the development and implementation of new standards and programs.

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[25] For example, the National American Indian Housing Council reports that an estimated 200,000 housing units are needed immediately in Indian country. Using Census and GAO statistics, NAIHC reports that in tribal areas, 14.7% of homes are overcrowded, compared to 5.7% of homes of the general U.S. population; and 16.9% lack of telephone service, compared to 2.4%; 11% lack kitchen facilities compared to 1%. http://www.naihc.net/news/index.asp?bid=6316 (accessed Oct. 8, 2008). The Indian Health Service finds that in 2006, 13.3% of tribal homes lack access to safe drinking water and wastewater infrastructure, compared to 0.6% of the general U.S. population. The Sanitation Facilities Construction Program of the Indian Health Service, U.S. Public Health Service, Department of Health and Human Services, *Public Law 86-121 Annual Report for 2006*, p. 26 (2007).

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Mitigation

The federal government should develop a **National Cap and Trade program** for greenhouse gas emissions, which results: in the implementation of a large-source, economy-wide cap-and-trade program for greenhouse gases that will ***reduce greenhouse gas (GHG) emissions*** by 60% to 80% by the year 2050; ***create a mandatory GHG reporting system*** as a basis for an economy-wide emissions trading program; ***technical assistance and funding*** to tribes to develop emission inventories that would enable them to effectively participate in GHG reporting systems and trading systems; ***allocation of tribal set-aside of emission allowances*** which would be auctioned and deposited into a "Tribal Climate Change Assistance Fund," and a uniform system for tracking renewable energy credits and carbon offsets.

The federal government should provide tribes equal access to **economic opportunities in low-carbon, renewable and efficient energy practices and technologies** such as solar, wind, biomass, and carbon capture and storage, including but not limited to: technical assistance and funding to enable tribes to explore and implement economic opportunities within these technologies, including funding for ***feasibility studies and demonstration projects***; tribal participation in ***carbon offset programs*** for agricultural, forestry, landfill methane, improved waste and wastewater management, and other offset projects; ***removal of barriers*** to tribal opportunities to undertake and own renewable energy projects on tribal lands that exist because of the application of the production tax credit and accelerated depreciation; and support for upgraded and ***expanded electricity grids*** to reach tribal energy projects and communities. Federal funding and technical assistance should be provided to enable tribes and their members to: calculate and reduce their ***GHG footprints***; improve the ***energy efficiency provisions of tribal buildings codes***; promote tribal understanding of the breadth of climate change issues, and what can be done through ***outreach and education*** programs.

Tribal Lifeways

The federal government should work with tribes to protect and preserve tribal lifeways, in two ways 1) by ensuring that ***research programs account for the value that traditional knowledge*** can bring to scientific research and adaptation and mitigation efforts, and 2) by ***establishing a federal-tribal task force and funding an implementation program*** that addresses climate change impacts on tribal cultures and lifeways, including but not limited to: research on the social, cultural and economic costs of climate change upon tribal communities and the benefits traditional practices have in social stability, adaptation and mitigation efforts; and support for natural resource management programs that protect indigenous ecological systems, subsistence plants and animals; inter-tribal sharing and application of traditional knowledge and culture; and implementation by tribal peoples, of demonstrably effective tribal practices that will benefit tribes and others, in climate change adaptation and mitigation efforts.

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Indian Water Rights Policy Statement
for the
2009 Presidential Transition

When reservations were established, water rights ("Winters Rights") were also reserved by the tribes and by the federal government. These water rights were intended to ensure tribes would have a sufficient supply of water to meet the agricultural, domestic, industrial, and municipal water needs of the reservations. The United States carries the legal obligation as trustee to protect these tribal rights. Despite this legal obligation, the United States government developed water policy and related infrastructure benefiting non-Indian communities without consideration of tribal interests. As a result, many tribal communities now suffer from inadequate, often compromised, water supplies. Degraded water supplies hamper reservation economic and community development, and prohibit effective fire protection. Furthermore, water resources and aquatic ecosystems crucial to tribal communities for cultural survival are often impaired by over-appropriation by non-Indian interests.

Indian tribes have sought to assert their water rights through litigation and, more recently, negotiated settlements to reverse these trends. Each method is extremely costly and lengthy, which further limits the ability of tribes to secure and utilize their water rights. The critical importance of asserting and developing Indian water rights will grow as the threats posed from climate change and population growth continue to escalate.

The benefits from tribal water rights settlements extend beyond reservation boundaries. Settlements are created in conjunction with the interests of the affected parties, including non-tribal users. Indian water settlements have been key catalysts for regional water infrastructure development, and have far reaching mutual benefits with non-tribal users. Wildlife and ecosystem conservation, too, are being considered and negotiated. An increasingly crucial priority in tribal water rights settlement negotiations has been the inclusion of in-stream flows to protect aquatic species and wetlands, both which carry cultural significance for many tribes.

However, the consistent, overarching obstacle tribes face when exercising water rights is a lack of serious and sustained fiduciary commitment from the United States. A permanent funding mechanism for Indian water rights settlements is an absolute necessity to enable the federal government to permanently resolve this issue.

There are a number of important steps the Administration and Congress could do to facilitate the development of tribal water rights:

- **Prioritize Reclamation Fund monies to fund Indian water rights settlements.** The Reclamation Fund is an appropriate primary funding mechanism for Indian water rights settlements in the west. Created in 1902 to finance agricultural water projects and infrastructure to build up the 17 western states, the Reclamation Fund is ideally positioned to fund Indian water rights settlements that comply with Reclamation Act requirements. The Reclamation Fund acquires money through repayments on the sale, lease or rental of public lands, and revenues from mineral leases and timber sales. These payments have been increasing in recent years largely to increasing prices of oil and gas,

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- **Support tribal preparation, litigation, negotiation and settlement of water rights claims.** The Bureau of Indian Affairs (BIA) regional offices distribute vital funding to tribes to conduct essential technical studies to enable them to participate fully and effectively in the litigation and negotiation processes. Over the past decade these resources have been badly cut, to the point tribes are seriously crippled in these efforts. Additional financial and human resources are necessary to assist tribes in developing and pursuing Indian water rights claims. Currently 19 tribes are engaged in settlement discussions and nine more have requested monies for such purposes. The demand for funding and staffing is going to increase as water concerns continue to rise, and the BIA must be adequately equipped with staff and program monies to distribute to tribes for the preparation and subsequent negotiation of water rights claims.

- **Support the Department of Interior's Indian Water Rights Office.** The DOI Indian Water Rights Office has been an important partner for Indian tribes when working on their settlements, providing meaningful input and resources. The Indian Water Rights Office should be permanently placed in the Department of Interior's structure, and effectively staffed, and funded to assist current and future water rights claims by the dozens of Indian tribes waiting to protect one of their most precious assets -- water.

The settlement of tribal water and land claims is one of the most important aspects of the United States' trust obligations to Indian tribes. As the next Administration begins to address current issues across Indian Country, water rights settlements must be a top priority as water issues loom over tribal and non-tribal communities alike. Water rights settlements create an opportunity for partnerships between water users that solve local problems with local knowledge while promoting tribal sovereignty. The United States needs to look at ways to improve the settlement process to create opportunities for Indian tribes and to uphold their trust responsibility. Significant obstacles exist across tribal communities, but access to a clean reliable water supply should not be one of them.

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Indian Transportation Policy Statement
for the
2009 Presidential Transition

Indian Reservation Roads (IRR) comprise over 104,000 miles of public roads with multiple owners, including the Bureau of Indian Affairs, Indian tribes, states and counties. IRR are the most underdeveloped road network in the nation[26]—yet it is the primary transportation system for all residents of and visitors to American Indian and Alaska Native communities. Over 66% of the system is unimproved earth and gravel. Approximately 24% of IRR bridges are classified as deficient. These conditions make it very difficult for residents of tribal communities to travel to hospitals, stores, schools, and employment centers.[27]

As far back as 2003, the BIA formally acknowledged in a report that at least $120 million per year was needed to maintain BIA-owned roads and bridges to an adequate standard.[28] This same BIA Report concluded that $50 million per year was needed for bridge rehabilitation and replacement. These costs have risen sharply in the past five years due to high construction cost inflation, but the Interior Department has requested only $25 to $26 million annually in Department of Interior appropriations for the BIA Road Maintenance Program, and proposes to cut the funding to $13 Million in FY 2009.

Funding for the Indian Reservation Roads (IRR) Program and other Tribal transportation programs is authorized every five to six years through federal highway reauthorization legislation. These highway reauthorization laws operate on a five to six year funding cycle and authorize the appropriation of hundreds of billions of dollars in transportation funding for State, Federal and Tribal transportation and transit programs from the Highway Trust Fund. Unfortunately, the Highway Trust Fund is now badly underfunded because current Federal gas tax receipts are insufficient to pay for the SAFETEA-LU-authorized transportation funding increases. The White House and other transportation analysts estimate that the Highway Account of the Highway Trust Fund will suffer a $4.3 billion shortfall in the FY 2009 funds needed to pay for all federal highway programs at the level promised in SAFETEA-LU. The Highway Trust Fund shortfall is projected to get worse as gas prices increase and drivers continue to switch to more fuel efficient vehicles.

Without an immediate and substantial increase in Highway Trust Fund revenues, the American Road & Transportation Builders Association (ARTBA) estimates that the Federal transportation investment could be cut by 40% percent in FY 2009 alone. If left uncorrected, this will mean a disastrous cut in Tribal transportation funding as well. The National Surface Transportation Policy and Revenue Commission, which was created by SAFETEA-LU, as well as other transportation organizations such as ARTBA, have put forward a number of proposals to address the Nation's long-term infrastructure funding needs, including raising the gas tax, assessing user taxes based on vehicle miles traveled, increased use of toll roads, and encouraging the

[26] Bureau of Indian Affairs, Transportation Serving Native American Lands: TEA-21 Reauthorization Resource Paper (2003).
[27] Statement of John Baxtor, Administrator of Federal Lands, FHWA, U.S. DOT, *Hearing on Transportation issues in Indian Country Before Senate Comm. on Indian Affairs,* 110th Cong. 1 (2007).
[28] See TEA-21 Reauthorization Resource Paper, BIA (May 2003), p. 32.

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construction of roads by public-private partnerships. But these proposed solutions will not be enough to improve the conditions in Indian country.

Transportation infrastructure is vital to tribal economies, education systems, health care and social service programs. Tribal communities are threatened by unsafe and often inaccessible roads, bridges and ferries. Indian tribes suffer injury and death by driving and walking along reservation roadways at rates far above the national average. Data shows 5,962 fatal motor vehicle crashes were reported on Indian reservation roads between 1975 and 2002 with 7,093 lives lost. The trend is on the increase, up nearly 25% to over 284 lives lost per year in the last five years of study. While the number of fatal crashes in the nation during the study period declined 2.2 percent, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5 percent. American Indians also have the highest rates of pedestrian injury and death per capita of any racial or ethnic group in the United States. These statistics are shocking and cry out for major changes in Federal transportation safety programs serving Indian country.
In 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59, was enacted into law. SAFETEA-LU provided several significant Tribally-beneficial provisions, and the funding allocated to the Indian Reservation Roads (IRR) Program increased from $275 million for Fiscal Year 2004 to $450 million for Fiscal Year 2009. SAFETEA-LU will expire on September 30, 2009.

Administration and Congress - Next Steps:

- Increase Funding for the Indian Reservation Roads (IRR) Program: IRR system has a construction need of nearly $40 billion. Although these roads represent 9.18% of the combined total of Federal-Aid Highways and federally-owned roads, the IRR Program receives only 1.4% of funds authorized to be appropriated under section 101(a) of Title I of SAFETEA-LU;

- Appoint a Deputy Assistant Secretary for Tribal Government Affairs in the Department of Transportation in accordance with SAFETEA-LU;

- Treat Indian tribal governments equitably and give them the same authority as state and local governments to raise revenue to fund the costs associated with building and maintaining transportation infrastructure;

- Create a new Tribal Traffic Safety Program within the FHWA-Federal Lands Highways office (FLH) and within the National Highway Traffic Safety Administration (NHTSA), each funded at $50 million annually to dramatically reduce the incidence of death and injury on America's Indian reservation roads;

- Address the backlog of BIA Indian Reservation Roads and Bridge Maintenance:

    - Encourage Tribal Leaders, Interior Department and Office of Management and Budget (OMB) officials to support an annual budget request to Congress of at least $150 million for the BIA Road Maintenance Program;

    - If this Interior Department funding level is not reached prior to the reauthorization of SAFETEA-LU, request that Congress authorize an additional $100 million

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- Authorize the Secretary of Transportation to enter into funding agreements under the ISDEAA for all Federal transportation programs serving Tribal program beneficiaries;
- Increase the number of Department of Transportation programs which Tribes may participate in as direct funding recipients from the Federal government rather than as sub-recipients through the States;
- Authorize the Secretary of Transportation to award State-administered transportation programs funds (such as Federal-Aid project funds) directly to Tribes through ISDEAA contracts and compacts;
- Increase funding to the Tribal Technical Assistance Programs (TTAPs) to $2.5 million annually and fully fund each TTAP Center at 100% federal share. Create additional TTAPs for each BIA region and require the Department of Transportation, FHWA Office of Professional and Corporate Development to consult with Tribal transportation officials with respect to the selection of TTAP award recipients;
- Authorize The Department of the Interior to include provisions in IRR Program Self-Determination Contracts and Self-Governance Compacts that facilitate Tribal governments' use of Debt Financing Instruments;
- Amend the IRR Bridge Program to authorize the use of funds for the construction of new bridges and other similar structures;
- Require the BIA to update and computerize right-of-way documentation for IRR Program routes and support Tribal corridor management practices; and
- Clarify that State Departments of Transportation may recognize and abide by Tribal Employment Rights Ordinances on Federal-Aid projects located on or near Indian reservations and Tribal lands.

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HOUSING PROGRAMS FOR AMERICA'S NATIVE PEOPLE

Policy Statement for the 2009 Presidential Transition

The bulk of Federal housing programs for American Indians, Alaska Natives, and Native Hawaiians ("Native Americans") are administered by the U.S. Department of Housing and Urban Development (HUD). Within HUD, the Secretary, operating through the Office of Native American Programs (ONAP), carries out the United States' special trust responsibility to Indian tribes and Indian people by improving their housing conditions and socio-economic status.

While there have been improvements, Indian housing falls far below the standard for the rest of the country. An estimated 200,000 housing units are needed immediately in Indian Country and approximately 90,000 Native families are homeless or underhoused. Overcrowding on tribal lands is almost 15%, and 11% of Indian homes lack complete plumbing and kitchen facilities.

The *Native American Housing Assistance and Self-Determination Act* is the main source of authority under which the United States provides housing and housing-related programs for Native Americans. Enacted in 1996, NAHASDA combined scattered Federal public housing programs into a consolidated block grant to better serve Native American communities. NAHASDA established the Indian Housing Block Grant (IHBG) to provide direct Federal assistance to Indian tribes to carry out affordable housing activities. NAHASDA was also meant to enable greater tribal participation in regulations through the negotiated rule-making process and to spur housing development by leveraging IHBG funds in combination with private sources of capital.

RECOMMENDATIONS FOR PRESIDENTIAL TRANSITION TEAM

The President-elect should convene a team from experienced Indian housing and community development practitioners. The team will work with senior advisors and designated transition team members from the President-elect's staff to identify the critical housing and community development issues throughout the Federal government as they relate to Native American housing and community development.

- Issues Requiring Attention by the President-Elect

There is a wide array of issues --- some related to funding, others related to the operation and management of Federal housing and development programs --- that justify the focused attention of the new Administration.

These include but are not limited to the following:

- Restoring the focus of Federal housing and housing-related programs and services to one respecting the hallmark of Indian Self-Determination;

- Ensuring meaningful consultation with tribal governments and housing authorities in advance of the development of relevant regulations and policies;

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- Restoring to the Federal agencies an appropriate role in terms of oversight and monitoring of tribal housing programs and services;

- Re-instituting a vigorous negotiated rulemaking procedure with tribal governments and housing authorities so that the impacts and consequences of proposed Federal actions can be fully debated and agreed to prior to implementation;

- Improving housing development and leveraging capacity within Indian Housing Authorities (IHAs) as distinguished from simply improving housing management skills according to federal guidelines

- Increasing Federal funding levels for Native American housing with a particular emphasis on achieving parity with jurisdictions of comparable size;

- Assisting Indian tribes in the construction and maintenance of physical infrastructure including methods of financing similar to those available to state and local governments;

- Ameliorating high energy and other costs of construction due in large part to isolated locations;

- Improving eGrant submission issues, particularly at the U.S. Department of Housing and Urban Development, as the current system negatively impacts tribal communities;

- Collaborate with tribal governments and housing authorities to initiate and develop comprehensive and effective risk management and other self-insurance programs and services related to Native American housing and related assets and property;

- Ensure a Native presence at White House and Cabinet level positions, e.g., Assistant Secretary for Indian Housing and Community Development, U.S. Department of Housing and Urban Development

The team should be conducting a series of strategy sessions leading up to and before the election and developing recommendations and strategies to ensure that agency-level representatives will be working with the President-elect's transition team that will be placed in Federal agencies by noon, January 20, 2009.

➢ Team Participants

Representatives from the following organizations should meet with the President-elect and his team of advisors to identify and present strategies to address the most pressing issues related to housing and community development in Native American communities.

- Elected tribal officials;

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- The National American Indian Housing Council (NAIHC) Board of Directors and designated staff;
- Representatives of Native housing from Alaska, Oklahoma and Hawaii;
- NAIHC Regional Housing Association representatives from the each of 9 regions;
- AMERIND Risk Management Board representatives and designated staff;
- Office of Hawaiian Affairs representative(s); and
- Department of Hawaiian Home Lands representative(s).

➢ Federal Agency Engagement

At a minimum, the following Federal agencies should be included in the focus of the transition team's work.

- U.S. Department of Housing and Urban Development (Public and Indian Housing, Office of Native American Programs);
- U.S. Department of Health and Human Services (Indian Health Service (IHS) and Administration for Native Americans (ANA);
- U.S. Department of Agriculture (Housing and Community Facilities Programs);
- U.S. Department of the Interior (Bureau of Indian Affairs Housing Improvement Program; and
- U.S. Department of Veterans Affairs (VA Direct Home Loans for Native American Veterans Living on Trust Lands).

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INDIAN HEALTH POLICY STATEMENT -- PRESIDENTIAL TRANSITION 2009

The Federal government provides health care to American Indians and Alaska Natives based on its trust responsibility found in the U.S. Constitution and affirmed by treaties, federal court decisions, and federal law. Today, health care is provided to 1.9 million American Indians and Alaska Natives primarily residing on or near Indian reservations located in 35 states. Despite the Federal government's trust responsibility, Indian people suffer disproportionately high rates of illness, disease, and mortality compared to the general population.

American Indian and Alaska Natives have the highest cancer mortality rates[29] – due to late detection and lack of diagnostic and treatment options. Our infant mortality rate is 150% greater than that of Caucasian infants[30]. We are 2.6 times more likely to be diagnosed with diabetes[31] and 7.7 times more likely to die from alcoholism The suicide rate for Natives is 2 1/2 times higher than the national average, and the #2 cause of death for Indian youth. [32].

In FY 2008, the Indian Health Service (IHS) received $3.3 billion through the Department of Interior, Environment, and Related Agencies Appropriations Act. IHS appropriations provide approximately 40% of the level of needed funding. The Indian health programs must supplement funding through third party resources: Medicare, Medicaid, SCHIP, private and tribal health insurance, and the Department of Defense and Veterans' Affairs.

While the health services delivered to American Indians and Alaska Natives has improved over time, the current service level is not adequately addressing the chronic need in the American Indian and Alaska Native population. To begin addressing the gaping disparities in health care of our Nation's first citizens, NCAI recommends that the President-Elect take the following actions:

1. Urge the rapid passage of the Indian Health Care Improvement Act Reauthorization as a top priority.

2. Elevate the Director of the Indian Health Service to an Assistant Secretary for Indian Health within the Department of Health and Human Services in order to more effectively and efficiently carry out the United States' responsibility to provide health care to American Indian and Alaska Natives.

3. Submit a budget to Congress that requests full funding reflecting 100% of the needed support for the Indian health care delivery system.

4. Ensure that any health care reform advanced by the President and his Administration must include the Indian health delivery system.

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[29] Trends in Indian Health 2000-2001. Indian Health Service. http://www.ihs.gov/NonMedicalPrograms/IHS_Stats/index.cfm?module=hqPub&option=t00.

[30] National Vital Statistics Reports, U.S. States Life Tables, 2003. http://www.cdc.gov/nchs/data/nvsr/nvsr54/nvsr54_14.pdf.

[31] National Center for Health Statistics, Health, United States, 2007, With Chartbook on Trends in the Health of Americans.

[32] Trends in Indian Health 2000-2001.

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INDIAN EDUCATION POLICY STATEMENT -- PRESIDENTIAL TRANSITION 2009

American Indian and Alaska Native students are being left behind. The 2007 National Indian Education Study[33] indicated that in reading and math, American Indian and Alaska Native students scored significantly lower than their peers in both forth and eighth grades. In fact, Native students were the only students to show no significant progress in either subject since 2005. Our students also face some of the highest dropout rates in the country[34]. These trends need to be reversed.

Recent studies have shown that students are more likely to thrive in environments that support their cultural identities[35]. This can be accomplished by Tribes and tribal education departments having a greater role in administering the education of their children. In turn, these children will be better prepared to become active, engaged tribal citizens.

In order to ensure that Native students meet the same challenging academic standards as the majority population, it is imperative that the next Administration make education a priority. To that end, NCAI recommends the following:

1. Accomplish the intent of the charter of the Office of Indian Education in the Department of Education by reinstating the Director to Assistant Deputy Secretary and Director, Office of Indian Education in the Office of the Deputy Secretary.

2. Accomplish the intent of the charter of the Office of Indian Education in the Department of Education by re-establishing the Director to Assistant Secretary and elevating the office out of the Office of Elementary and Secondary Education to be a stand alone.

3. Establishment of an Indian Education Budget Task Force that would consist of representatives of the Department of Education and Department of the Interior as well as tribal experts.

4. Issue an Executive Order on Indian Education that promotes the use of Native language instruction and culture based education in public and federally funded schools.

5. Call for a White House conference on Native youth issues and support a Native Children's Agenda – elevating the current status and situation facing Native youth to a national priority.

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[33] Moran, R., Rampey, B.D.,Dion, G., Donahue, P. (2008). *National Indian Education Study2007 Part I: Performance of American Indian and Alaska Native Students at Grades 4 and 8 on NAEP 2007 Reading and Mathematics Assessments* (NCES 2008–457). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, Washington, D.C.

[34] Laird, J., DeBell, M., and Chapman, C. (2006). *Dropout Rates in the United States: 2004* (NCES 2007-024). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC.

[35] Clarke, "American Indian and Alaska Native Students."

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6. Actively utilize the National Advisory Council on Indian Education (NACIE) to promote policies on Indian Education within the Department of Education.

7. Reauthorize the No Child Left Behind Act and reaffirm the original intent of the Title VII program by providing provisions for meaningful tribal involvement in setting education priorities for Indian students and the inclusion of Native language and cultural instruction.

8. Advocate for appropriations for Tribal Education Departments.

9. Request and advocate for adequate funding for Bureau of Indian Affairs school construction, maintenance, and transportation.

10. Authorize Tribes to be Eligible Grantees for Title VIII Impact Aid Grants and disallow the equalization of Impact Aid funding, utilized by states like Alaska and New Mexico that allows for Impact Aid funding to be considered a local revenue source and deducted from state aid.

11. Support the ongoing work of the White House Initiative on Tribal Colleges and Universities.

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2009 NCAI MILITARY/VETERAN'S ISSUES

The Veterans Administration and the Census Bureau indicate that there are 160,000 American Indian veterans –nearly 10% of the American Indian population and a proportion three times higher than the non-Indian population. Our men and women served with honor and distinction and many sacrificed their lives for our great nation The incoming Administration is strongly urged to acknowledge their duty and sacrifices and provide the services and benefits needed for American Indian and Alaska Native Veterans.

The Veterans Committee of the National Congress of American Indians has developed numerous resolutions and recommendations to improve services provided to American Indian and Alaska Native veterans. Despite these efforts, many problems still exist today. Specifically, we have recommended improvements in the following areas:

- Universal Healthcare that will include access and services for the following:
  - Specialist treatment for traumatic brain injuries
  - Alcohol and drug abuse programs including prescription drugs
  - Post traumatic stress disorder
  - Mental health, including suicide & suicide attempt, domestic violence, etc.
  - Mental health for family members of veterans
  - Long-term care, including home health care/providers and nursing home facilities
- Providing travel to and from medical/benefits related appointments and increase in reimbursed costs
- Establish access to and identify focal points for telemedicine
- Veteran's housing loan programs
- Homeless vets and transitional housing
- Increase in burial plot allowance to $1,000
- Implementation of the Memorandum of Understanding between the Department of Veterans Affairs and Indian Health Services to be vested with the White House Office of Inter-Governmental and the MOA to be expanded to include Urban Health Care Centers.
- That the U.S. Department of Veterans Affairs establish an American Indian/Alaska Native Veterans Affairs Office, which will include a Director, Deputy Director, and Staff. All positions will be filled by an American Indian or Alaska Native veterans.
- Funding for Tribal Veteran Service Officers in tribal communities

For more information, please contact these members of the NCAI Veterans Committee.

James DeLaCruz, Quinault
Larry Townsend, Lumbee
Leland Castro, Fresno AIHP
Dan King, Oneida
Virginia Brings Yellow, Quinault

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NATIVE CHILDREN'S AGENDA POLICY PORTFOLIO
DEVELOPING A SHARED VISION

EXECUTIVE SUMMARY

The health, well-being, and success of Native children are central to tribal sovereignty and the future of tribal cultures. Tribal governments are responsible for raising, teaching, and caring for children, and Native children in turn form the backbone of future tribal success. The National Congress of American Indians, the National Indian Health Board, the National Indian Education Association, the National Indian Child Welfare Association, and the National Council of Urban Indian Health have pulled together their expertise to create a joint policy agenda for American Indian and Alaska Native children's issues. The goal of this initiative is to set forth specific recommendations to improve the social, emotional, mental, physical, and economic health of children and to improve their learning capacity and developmental potential.

This agenda is intended as a tool to assist tribal leaders and other policymakers in creating and implementing a vision for a healthy community. It is also intended to guide stakeholders in identifying legislation and policy issues that may affect Native children. We identify four over-arching themes that we believe must be guiding principles for improving children's lives and outcomes. Within each theme, the policy agenda sets forth tribal strategies and policy objectives to implement these principles. The themes are:

Healthy Lifestyles. Our children must have the resources they need to develop strong self-esteem and the life skills needed to nurture them into adulthood. One of these resources is good health. Children who are physically and emotionally healthy are more able to play, learn, and work.

Safe and Supportive Environments. Children who have their basic needs met, including love, shelter, food, clothing, and play, are children who thrive, explore, learn, and dream. Our children must be protected from unsafe environments and supported by our communities.

Successful Students. Children who are healthy, safe, and nurtured achieve to the best of their abilities. Our children need skilled teachers, sound curricula, and family involvement so they can gain the abilities they need for present and future fulfillment.

Stable Communities. In order to invest in children and the community structures that support them, tribal governments must have options for economic development and flexibility to channel tribal and federal funds into programs that best support their members. The objective is to foster economically self-sufficient communities which can support community programs that provide basic economic support for children and families.

For more information please see the Native Children's Agenda at www.ncai.org.

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List of National Indian Organizations

Association on American Indian Affairs
Tel: 240-314-7155 Website: www.indian-affairs.org

American Indian College Fund
Tel: 303-426-8900 Website: www.collegefund.org

Council of Energy Resource Tribes
Tel: 303-282-7576 Website: www.certredearth.com

First Nations Development Institute
Tel: 540-371-5615 Website: www.firstnations.org

Indian Land Tenure Foundation
Tel: 651-766-8999 Website: www.indianlandtenure.org

Institute for Indian Estate Planning and Probate
Tel: 206-398-4284 Website: www.indianwills.org

Intertribal Agriculture Council
Tel: 406-259-3525 Website: www.i-a-c-online.com

Intertribal Tax Alliance
Tel: 918-287-5392 Website: www.indiantax.org

Intertribal Timber Council
Tel: 503-282-4296 Website: www.itcnet.org

Intertribal Transportation Association
Tel: 406-353-8469 Website: http://www.ewu.edu/x25312.xml

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Intertribal Trust Fund Monitoring Association

Tel: 505-247-1447 Website: www.itmatrustfunds.org

National American Indian Court Judges Association

Tel: 605-342-4804 Website: www.naicja.org

National American Indian Housing Council

Tel: 202-789-1754 Website: www.naihc.net

National Center for American Indian Enterprise Development

Tel: 480-545-1298 Website: www.ncaied.org

National Congress of American Indians

Tel: 202-466-7767 Website: www.ncai.org

National Council of Urban Indian Health

Tel: 202-544-0344 Website: www.ncuih.org

National Indian Business Association

Tel: 202-233-3766 Website: www.nibanetwork.org

National Indian Child Welfare Association

Tel: 503-222-4044 Website: www.nicwa.org

National Indian Council on Aging

Tel: 505-292-2001 Website: www.nicoa.org

National Indian Education Association

Tel: 202-544-7290 Website: www.niea.org

National Indian Gaming Association

Tel: 202-547-7711 Website: www.niga.org

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National Indian Health Board

Tel: 202-742-4262 Website: www.nihb.org

National Indian Justice Center

Tel: 707-579-5507 Website: www.nijc.indian.com

National Native American Law Enforcement Association

Tel: 800-948-3863 Website: www.nnalea.org

National Tribal Environmental Council

Tel: 505-242-2175 Website: www.ntec.org

National Tribal Justice Resource Center

Tel: 303-245-0786 Website: www.tribalresourcecenter.org

Native American Finance Officers Association

Tel: 602-532-6295 Website: www.nafoa.org

Native American Rights Fund

Tel: 303-447-8760 Website: www.narf.org