



REGAINING OUR FUTURE

An Assessment of Risks and Opportunities
for Native Communities in the 2018 Farm Bill



Prepared by
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and Colby D. Duren**
Indigenous Food and Agriculture Initiative

Commissioned by
Seeds of Native Health
A campaign of the Shakopee
Mdewakanton Sioux Community



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“Much like the 2014 Farm Bill, which was projected to spend \$956 billion over a 10-year period, the 2018 Farm Bill will be one of the largest non-defense funding authorizations to be considered in the history of this country. Since the Intertribal Agriculture Council’s inception, we have struggled to rally the support of tribes to effectively advocate for greater Native inclusion in previous Farm Bills. This document will serve as a new foundation for our ongoing efforts, working in partnership with the Indigenous Food and Agriculture Initiative, the SMSC’s Seeds of Native Health campaign, the National Congress of American Indians, and the Intertribal Timber Council to ensure well-crafted, effective, and thoughtful agriculture and nutrition policy; and a soapbox from which tribal voices can be heard in creating of that policy.”

ROSS RACINE

Executive Director

Intertribal Agriculture Council



National
Congress of
American
Indians

“For many years NCAI has been involved in Farm Bill discussions and negotiations as our tribal leadership and membership have recognized the important opportunities it provides for Indian Country. With so many tribal governments recognizing the importance of securing self-determination in the development of food systems for tribal citizens, we join the call to ensure that Indian Country’s voice is included in the upcoming Farm Bill discussions. We believe that the next step in strengthening tribal communities will be through diversified economic development, including food and agriculture production and businesses, natural resource development, as well as a more intense focus on infrastructure development. This document will help us examine the breadth of opportunities that are available throughout the Farm Bill to allow Indian Country to achieve its goals through advocacy and engagement.”

JACQUELINE PATA

Executive Director

National Congress of American Indians



“The Farm Bill provides important congressional authorization and direction on the health of forests. Tribal forests and woodlands are critical assets that contribute to the lives, well-being, and economic vitality of tribes across the country. The Intertribal Timber Council supports additional tools in the Farm Bill reauthorization to help tribes manage their forests and woodlands, while protecting them from wildfire, pests and disease.”

PHIL RIGDON

President

Intertribal Timber Council



The grassroots movement to reclaim Indigenous foodways, improve our food security, and assert our food sovereignty is growing throughout Indian Country. But the role and influence of the federal government in Native nutrition, agriculture, ranching, fishing, forestry, and conservation remain enormous.

Just as the change in seasons brings new rhythms to everyday life – sowing, cultivating, growing and harvesting – the change in political seasons brings new tasks in the life of our communities.

As the Trump Administration and the 115th Congress prepare to shape the next Farm Bill, there has never been a better – or more critical – time for Native Americans to unite around this task: to consider our common goals, join together, and advocate for our interests in this mammoth piece of domestic legislation.

Frankly, there is much at risk for us in the next Farm Bill. But, with a spirit of both realism and hope, we also can envision new, positive opportunities for tribal governments, Native producers, environmental stewards, and community members. For that reason, we commissioned one of the great food leaders in Indian Country, Janie Hipp, to analyze these risks and opportunities. Janie and her colleague Colby Duren worked in close consultation with the Intertribal Agriculture Council, the National Congress of American Indians policy staff, and the Intertribal Timber Council to develop this exhaustive report and ensure that it reflects the broadest perspective possible.

This report is not the end – it is the beginning – of what we hope will be a heightened consideration of the importance of our voices in this process.

We hope this report may provide the basis for a new, increased degree of involvement and collaboration by tribal leaders, activists, citizens, and our allies in the debate over the Farm Bill. If we work together, Native Americans on reservations and in urban areas alike can take another important step forward in controlling our own economic, nutritional, cultural and spiritual destinies.

Sincerely,

SMSC Business Council

Chairman Charles R. Vig

Vice-Chairman Keith B. Anderson

Secretary/Treasurer Freedom Brewer





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INTRODUCTION



The long history of federal food and nutrition policy can be traced to our nation's early days. The agriculture committees in Congress are among the oldest: the House of Representatives agriculture committee was established in 1820 and the Senate agriculture committee in 1825. The United States Department of Agriculture is the second oldest federal agency and is the primary federal department charged with overseeing domestic and international policy related to: U.S. food security; domestic food systems; international food policy; trade; nutrition; conservation; rural development; research; and the nation's forest system. As the first farmers, ranchers, irrigators, food producers, and stewards of this land, each of these important policy areas have significant impacts and meanings for Indian Country. We must be engaged in the improvement and development of federal food policy because it directly impacts our lands, our foods, our waters, our natural resources, and our economic development opportunities.

The Farm Bill is the major omnibus piece of federal legislation that addresses all of these policy areas. While U.S. federal laws crafting food and agriculture policy can be traced into the 1800s, and a bit earlier, state and local laws relating to food and agriculture can be traced back even further as agriculture production and trade led to the birth of many states and localities. The more modern provisions of what we now refer to as the federal Farm Bill were first envisioned in the 1930s. Prior to the 1930s, federal law consisted primarily of provisions to provide land to farmers; credit or other financial support to food producers; and research to establish the original land grant institutions. Strikingly, these early pre-1930s provisions which created new farming communities and opportunities for homesteading settlers, represented a great loss by tribes of our communities, many citizens, our foods, and our traditional homelands through hundreds of treaties between the early United States and Tribal Nations. This created a complex and storied history that still impacts tribes and tribal agricultural today.

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***Indian Country's relationship
with farming and ranching
is a tale of two worlds.***

Indian Country's relationship with farming and ranching is a tale of two worlds. On one hand we, as Indigenous peoples, have long been engaged in feeding ourselves. Our significant relationship with this continent's plants, animals, and food systems is well-established in written historical accounts, oral traditions, and archaeological and anthropological evidence. Most of our early and ancient communities on these lands were deeply involved in complex agricultural systems; some were among the first "agricultural researchers," domesticating a wide variety of crops used for feeding our communities and families. The history of the foods commonly eaten in the U.S. today, and around the world, can be traced to original Indigenous peoples.

On the other hand, we, as Indigenous peoples, have been forced for centuries to endure the sidelining of our deep and complex food system knowledge in favor of supporting the food systems of those who claimed this continent as their new home. We were told to be "farmers" in our early treaties, yet forced to ignore the food systems that existed in this country for centuries in favor of establishing farming and ranching practices more familiar to the new settlers. Treaties, federal removal, and reservation policies led not only to the loss of our rights to be at home on our own traditional lands, but to feeding our people in food systems which had supported us for centuries. These new federal policies led to significant disconnections between us and our existing food systems, and the sheer act of feeding ourselves, which was the embodiment of self-determination and self-governance in food we had exercised for so long, was lost.

The treaties between the United States and various Tribal Nations clearly show the intent of those executing the treaties to "assist" Tribal Nations in the pursuit of "farming." While these treaties are the legal embodiment of loss, trauma, pain, anger, and removal from our lands, the language of "farming" remains nonetheless. Many of these early

treaties discuss at length the assignment of tracts of “tillable” or “arable” land in established acreages for “cultivating the soil as farmers.”¹ Such lands were decreed to no longer be held in common, but held “in the exclusive possession of the person selecting it, and of his family, so long as he or they may continue to cultivate it.”² The employment of individuals to “instruct (them) in the mode of agriculture suited to their situation”³ was recognized as a duty of the federal government. When Indians selected lands for cultivation, treaties specified that “the agent shall be satisfied that he intends in good faith to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements.”⁴ Some treaties described tracts of land “upon which their improvements as an agricultural people are to be made” so that their “wandering habits” could be curtailed and went further to identify the employment of farmers “whose duty it shall be to assist the [Menominee] Indians in the cultivation of their farms, and to instruct their children in the business and occupation of farming.”⁵

What is clear from the language of many treaties is that the United States government explicitly intended for Indigenous peoples to become farmers, but ignored the basic premise: that we as Indigenous peoples had been feeding ourselves within sustainable food systems since time immemorial, and we were not dependent on anyone but ourselves

to do so. When our lands were taken from us in exchange for peace and land for the rapidly escalating number of immigrants to this land, we were told to be “farmers.” A “farmer” by any standard definition is one who cultivates the land to feed him or herself and others around him or her. Many of our ancestors had been “farming” for centuries. But in ways that were known to us and were in concert and harmony with the lands, water, plants, and animals. Many tribes had deep trade relationships with other tribes in the currency of food.

While the lengthy history of those treaties and the parallel history of our peoples, their relationship with their lands, and their ability to feed themselves have been fraught with stories, many too terrible to tell, what isn’t well known is that all Indian Country has a stake in a modern Farm Bill. We must amplify this because our health, our well-being, and the building of sustainable economies within our communities requires that we not turn away from this important piece of federal legislation. The Farm Bill focuses on the policies that are important to us all: food security; food production; creating food businesses; conservation of our lands; building trade relationships; continuing to grow our knowledge of foods we rely upon; building strong communities; and ensuring the infrastructure of our communities can be built, repaired, and continually improved.

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Many of our ancestors had been “farming” for centuries. But in ways that were known to us and were in concert and harmony with the lands, water, plants, and animals.



FARM BILL

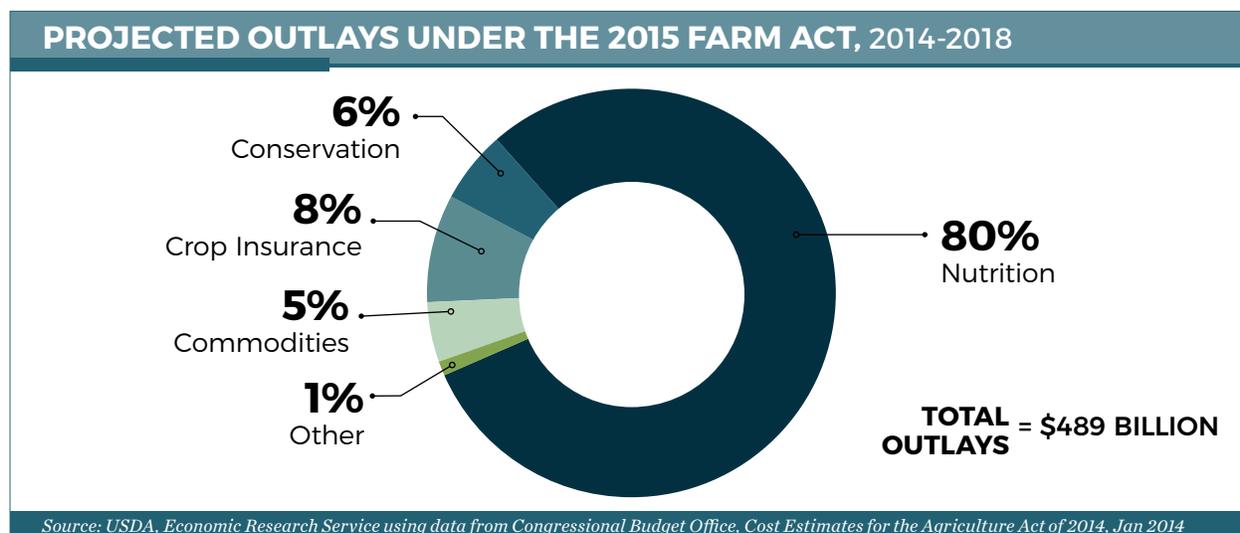


The “Farm Bill” is the major, omnibus legislative act historically considered by Congress every five years that serves as the primary vehicle for developing these federal food and nutrition policies. The most recent version of the Farm Bill was passed in 2014.⁶ When passed, the Congressional Budget Office projected that the 2014 Farm Bill would have \$489 billion in spending over five years, with: 80 percent of the outlays funding nutrition programs; 8 percent funding crop insurance programs; 6 percent for conservation programs; and 5 percent funding commodity programs. The remaining outlays fund all other programs authorized by the act, including: trade, credit, rural development, research, marketing, forestry, energy, agriculture, and an assortment of other miscellaneous programs.

Indian Country, with only a few exceptions, has been primarily absent from Farm Bill discussions that establish national food policy for decades. We have relied upon a few active tribes and policy specialists, who have been dedicated to advocating for and correcting problems with federal food and agriculture policy on behalf of all of us. The importance of honoring those voices now cannot be overstated. But the health of our people and the survival of our communities depends on us now finding a louder voice. The seeds of our health require watering and tending. Whether we like it or not, the health and well-being of our people and our tribes necessitate that we become more engaged. Since it is passed approximately every five years,

Farm Bill policies stretch across administrations, making most of the debates, by their very nature, bipartisan. The voices in the Farm Bill encompass urban and rural views that stretch across the entire country and around the world. They can champion conventional production, organic, local, export, raw commodity products, and value-added products. Some groups advocate exclusively for nutrition and feeding programs. Others work on issues related to the business of farming and food production. Some focus on research and extension of knowledge. Others focus on conservation of private or public lands and our nation’s forest lands. Despite how messy it can be, it is critical to harmonize all these interests.

Indian Country’s relationship with the Farm Bill has clearly been complex. We have sought changes to sections that directly affect us and we have partnered with others, Native and non-Native alike, to have our voices heard. But we have not taken a deeper, more targeted approach to exerting ourselves in large ways across the entire Farm Bill landscape. While some might say that Indian Country is not affected by every section or title of the Farm Bill, that is simply not the case. Nearly 25 percent – and in many communities more than 50 percent – of all our citizens may directly access and participate in the feeding programs that make up almost 80 percent of the Farm Bill outlays of the Nutrition Title.⁷ Tribal lands⁸ are deeply engaged in agriculture. In fact, more than 50 million acres



of our lands are engaged to some extent in food production and agriculture.⁹ Our lands participate in the programs. Our people have farm and ranch loans and guaranteed loans. Our Tribal Colleges and Universities receive funding under the Research Title. Our food products are the subject of trade and are affected by the Trade Title. And on and on.

We are entering a period when Indian Country voices in the Farm Bill debate need to be louder. The full scope of food and agriculture programs must be available to us in order to turn the page on the significant food and health-related impacts within our own Native communities. We have the highest numbers per capita of individuals who are dependent on feeding programs in the United States. Our health disparities are among the worst of any population group in the nation. Our rural, reservation, and isolated communities are in dire need of infrastructure and economic development focus. While we have access to millions and millions of acres of lands that are already engaged in some form of food production, the very foods raised and grown on our lands do not stay within our communities to feed our people and grow our communities and economies.

We can hold on to and encourage the momentum surrounding the “food sovereignty” movement so many of our Indigenous peoples are engaged in; we can encourage and promote the utilization of our lands to enhance our own and others’ food security during a time of a growing world population; and we can seize the opportunity to build food infrastructure in our communities and regions to ensure that the changes we want to make are cemented in place for future generations. To do so, we need to have a bigger voice in the Farm Bill.

The Farm Bill provides resources and programs that will allow us to reach our goals more quickly than in the past. We have access to land and water that we can strategically utilize to improve the health, well-

being and economies of our communities; and we live at a time when people are seeking food that matters. We cannot ignore the singular piece of federal legislation that can either slow down or speed up our journey to health, food security, food sufficiency, food access, and food economic sustainability. As we become more engaged with the Farm Bill, many will welcome our voices and presence in the upcoming food and agriculture policy debates.

This document offers a glimpse of the structure of the Farm Bill and the historical context surrounding key components of the current bill. It also discusses the promises and opportunities as well as the challenges and barriers associated with the Farm Bill. We recognize that this is a complex journey. We hope you will glean from this document a sense of the policy levers that can improve our personal health and economic viability goals; the many reasons to become active and lend our voices to a more significant, unified presence in the upcoming Farm Bill debates; and the immense opportunities to come. Our time is now, so, let’s begin the discussion.

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THE FARM BILL: SOMETHING FOR EVERYONE

When then President Obama signed the 2014 Farm Bill into law, he referred to the bill as a Swiss Army knife, because of the multiple functions of the Farm Bill: research, jobs, infrastructure, conservation, innovation, safety net, and health and nutrition. The bill itself is currently structured around 12 titles, each with varying sub-sections. Every title of the bill is important to Indian Country. The discussion below will explore the purpose and relevance of each of these titles and the many subsections to tribes. For the most part, we have tended to focus on a few sections for a narrow purpose and have seldom expanded our voices to impact the entirety of the Farm Bill on behalf of the entirety of Indian Country.



Before we delve into these deeper discussions of sections and titles, one overarching comment must be made. For the most part, **USDA programs and authorities strewn throughout the Farm Bill have very few “Indian-only” focused programs, very few “set-asides” for tribes, and USDA does not have “638” self-governance contract and compact authority.**¹⁰

638 authority would give tribes the ability to engage more simply and efficiently with all USDA agencies and assure tribal administration and control of the delivery of the vast array of USDA programs. Many USDA programs and authorities lend themselves well to tribal management under 638 authority.

But this authority must be granted by Congress to USDA in order for USDA to begin negotiations and for tribes to start the implementation processes necessary to manage these programs. It is critical that we advocate for 638 authority for nutrition and forestry programs in the 2018 Farm Bill.

The Farm Bill focuses on the needs of the United States in several key areas, such as feeding programs and nutrition; farming, ranching, and food businesses; rural development; rural infrastructure; research that affects food, agriculture, and related areas; markets and trade due to their importance to agriculture; conservation of lands; and forestry. Most of the programs and services in the Farm Bill

are designed to be broadly accessible. With some notable exceptions which are discussed below, these provisions are not “tailored” to the needs of tribes. The discussion identifies several key policy areas where “set-asides” or “Indian-only” programs would be very appropriate and would build on language that already exists in the Farm Bill.

We also discuss the importance of the simple act of including “tribal governments” in the existing intergovernmental approaches through which many of the USDA programs are delivered. Many tribes are taking steps to create **“Tribal Departments of Food and Agriculture”** within their tribal governments. These departmental offices at the Tribal level must be incorporated into the existing intergovernmental relationships honored for decades by USDA. And finally, most USDA programs haven’t even begun to be seriously utilized by tribes because, for the most part, we are invisible in those relevant Farm Bill sections authorizing the programs. But we need to act now to change that. Creating our own Departments of Food and Agriculture is an important way to place ourselves squarely in an intergovernmental position vis-à-vis the USDA. Another is to become more knowledgeable about and engaged in Farm Bill discussions.

Slight amendments will be necessary to expand the Farm Bill to address the needs of Indian Country. It is equally important to realize that the existing treaty obligations which are still relevant today are necessary to stabilize tribal communities and accelerate the ability of tribes to meet their economic, food, infrastructure, and health needs.

INDIAN COUNTRY'S CONSISTENT VOICES IN THE FARM BILL

The Intertribal Agriculture Council (IAC) and the National Congress of American Indians (NCAI) have been the stalwarts of ensuring that Indian Country has a voice in Congress and with the



administration on Farm Bill related issues. The IAC was born out of the 1980’s farm financial crisis, which had unique and devastating impacts on tribal producers. These organizations’ initial policy statements on the 2018 Farm Bill are included in the appendix.

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Every title of the bill is important to Indian Country.

It is critical that their voices are amplified by a chorus of other tribal leaders, organizations, and communities to achieve our goals.

IAC’s early thoughts on the upcoming Farm Bill discussions start with insight about our past.

Agriculture in Indian Country and in other Socially Disadvantaged communities has made tremendous strides in recent versions of the Farm Bill when you consider their meager representation prior to the 1994 Bill. The number of Native producers is up, production is more diversified, participation rates in some Farm Bill opportunities is improved, and we are poised to take the next step; turning our people into food producers and rebuilding our food systems locally, regionally, nationally and internationally.

When dealing with such long ranging policy, there is always room for adjustment in existing policies, in addition to exploring brand new concepts. Thirty years of tireless advocacy, effort, and conversations with and on behalf of our Native producers informs the following recommendations.

Our initiatives for consideration in this and future Farm Bills are reflective of our formative documents; used to capture the landscape, barriers, and opportunities in Indian Agriculture in the mid 1980s. There were several areas of emphasis covered in that document, but they can be summarized in two general categories: fair access to credit, and improvement of federal services.

First, it must be stated that the IAC is not in favor of an “Indian Title” in the Farm Bill, or in any other legislation that is national in scope and not specifically dealing with Indian Country. We prefer the concept of increased Native American participation intertwined so deeply in every program and service throughout the government that it would not only take a concerted effort to unravel it, it becomes second nature for all service providers to think, “what is the Native American point of view on this?” This also guides our approach to our Farm Bill priorities.

First and foremost, the linkage between farm policy programs to feed the hungry, be they overseas, or United States citizens must be maintained by keeping them

tied together in the Farm Bill. When this discussion is held, too often, we forget that in addition to feeding those in need, SNAP, WIC, FDPIR, and even the overseas hunger efforts, all serve as the price support structure for the American agriculture economy.

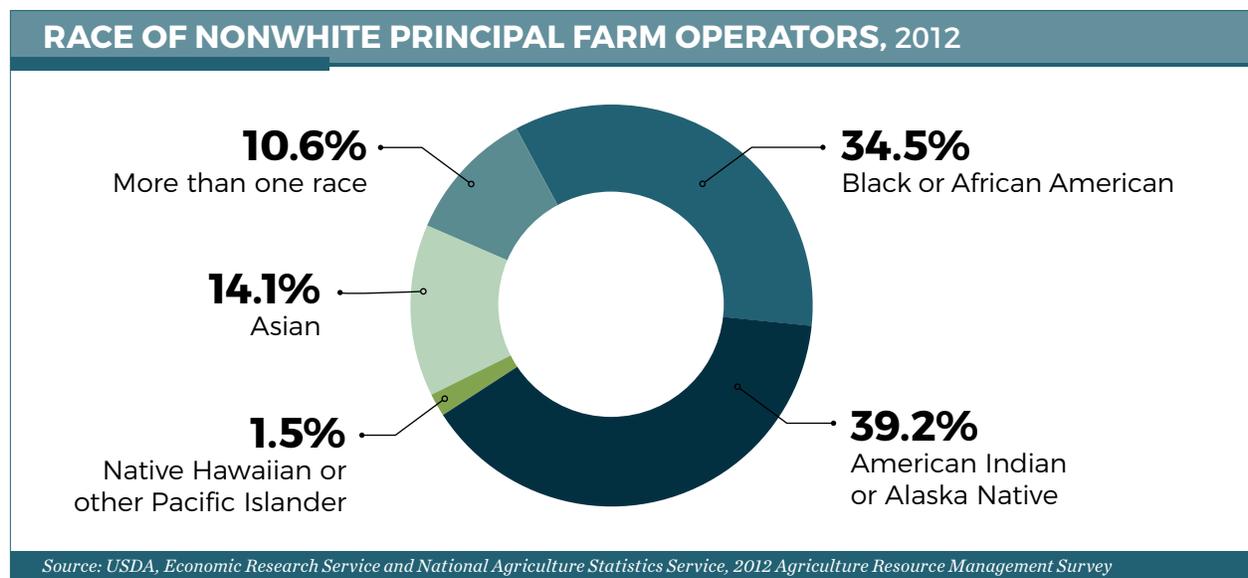
Parity for Livestock Producers. It hasn’t been until recently, that livestock producers have been thoughtfully included in Farm Bill discussions and programs. As a result, there is considerable room for improvement. What makes this especially important is that the very nature of their business not only

results in a lack of income when commodity prices are down, their borrowing power proportionately reduced, as a function of their equity base being erased by forces outside of their control. Where crop producers often own the land and equipment used in production, assets

with a somewhat stable appreciation or depreciation trajectory, that isn’t tied so closely tied to the market; livestock producers not only depend on livestock prices as their main source of income, their ability to borrow operating capital for production expenses or expansion is directly and inextricably linked to these prices.

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Most USDA programs haven’t even begun to be seriously utilized by tribes because, for the most part, we are invisible in those relevant Farm Bill sections authorizing the programs. But we need to act now to change that.





Crop producers have access to ACRE, Counter-Cyclical Payments, and Loan Deficiency Payments, not to mention Federal Crop Insurance, to manage their risk from market fluctuations and production losses. Livestock producers have a very limited set of tools in their risk management toolbox. Most of those tools come at an upfront price. Crop growers have the luxury of being a premium their proper insurance products after the harvest, which enables them to avail themselves of this tool at no actual cost. We seek the same latitude for livestock producers.

It is often challenging to convince underserved, and higher risk, populations to participate; as a result, a “socially disadvantaged” subsidy rate should be established, which would increase the willingness of insurance providers to seek them as customers.

The IAC regularly assists producers with FSA loans for livestock production. Both direct and guaranteed loans force a state-determined planning price to develop cash flows. When this projected price is above what is realized, through no fault of their own the producer’s plan is no longer viable and they become “distressed.” Loan deficiency payments could assist with this and prevent considerable numbers of defaults while saving countless hours of staff time in restructuring.

A pilot project that would develop a congruent set of tools for livestock producers should be a part of this Farm Bill. Existing risk management tools for livestock producers should have premium payments deferred until production is known, as federal crop insurance is. In addition, the subsidy rate should be higher for Socially Disadvantaged Groups to improve their participation in risk management opportunities. Many Native producers are horse owners. For many of these producers, horses are the income source from property under their control. Growing horses is a permitted livestock operation under tribal law in these cases, and should be treated as agriculture by the USDA for the purposes of lending, risk management, value added agriculture, and disaster assistance. We can draw a parallel to floriculture if needed to illustrate how broad the interpretation can be.

According to the National Congress of American Indians (NCAI):

Agriculture is a major economic, employment, and nutrition sector in Indian Country. The 2012 U.S. Department of Agriculture Census of Agriculture counted at least 56,092 American Indian-operated farms and ranches on more than 57 million acres of land. These farms and ranches sold \$3.3 billion of agricultural products, including more than \$1.4 billion

of crops and \$1.8 billion of livestock and poultry.¹¹ **Additionally, the 2007 Census of Agriculture Fact Sheet notes that, “American Indian farm operators are more likely than their counterparts nationwide to report farming as their primary occupation...to derive a larger portion of their overall income from farming...[and] to own all of the land that they operate.”**¹² As a result of the huge agricultural footprint across Indian Country and the fact that more than 35 percent of American Indian and Alaska Native peoples live in rural communities,¹³ tribal governments and farmers look to active partnerships throughout the US Department of Agriculture (USDA) to sustain and advance common interests across the broad array of services that this federal agency provides to tribal governments.

Programs at USDA span a wide range of areas that have an impact on Indian Country, including food safety, housing, business development, telecommunications and broadband, water systems, crop insurance, nutrition, land conservation, forestry, research, and of course the programs designed to assist farmers. In FY 2012, Rural Development and the Rural Utility Service together funded investments totaling more than \$190 million in Indian Country, with approximately half of that in the form of loans and loan guarantees. As such, tribal governments look to the myriad of services, programs, and resources available from the USDA to ensure sustained prosperity and economic security to American Indians and Alaska Natives — not only through its programs to farmers and ranchers, but also through programs that serve tribal governments, natural resource managers, youth, colleges, water infrastructure providers, tribal utilities and housing providers, and tribal communities.¹⁴

In 2013, NCAI also published recommendations for Farm Bill engagement, stating:

The support provided through the Farm Bill has long been recognized as holding many opportunities to create sustainable, resilient, and land-based jobs while providing food and economic resources for our nations and supporting

*our youth and educational opportunities. Important concepts that should control Farm Bill discussions from the Indian Country perspective include **parity, opportunity, and consistency.***

Parity requires that legislation and funding for USDA programs and services include tribal governments at the same level as states and counties in the delivery of meaningful food and agriculture, nutrition, health and education programs. **Opportunity** is what the Farm Bill should provide to Indian Country through tribal support and incentive programs as well as a statutory requirement to the USDA to focus the provision of all USDA services and programs to Substantially Underserved Trust Areas. **Consistency** is needed in programs and funding to ensure tribal governments can establish long-term plans and goals for their communities. Funding for some tribal programs at USDA over the last few years – especially in the economic development programs – has been reduced and then consolidated into broader, non-tribal-specific programs. Given the expense and effort it takes to ensure tribes know about USDA programs and are taking advantage of them, it creates a bad shell game to take away tribal-specific programs or move such funding into a general program where tribes must compete.

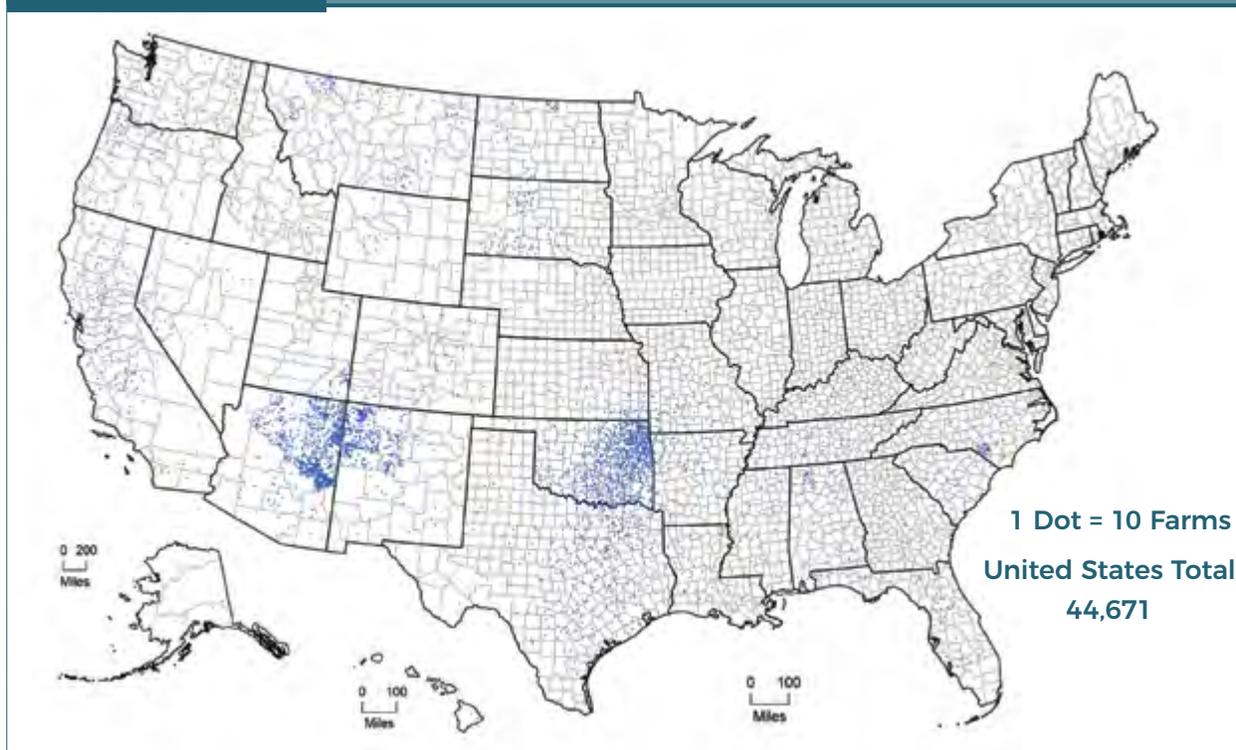
*Agriculture reforms are needed to encourage and support the continued development of Indian Country food and agriculture resources. Reforms in the Farm Bill and in the USDA implementation of farm programs will assure that tribal resources can be optimized in the food and agriculture sector in ways that will support sustainable economic development, which means jobs. Without reforms, Indian agriculture will lack the support necessary to continue its development and the ability of existing tribal food and agriculture businesses to grow and reach new levels of success and prosperity will be affected.*¹⁵

2012 AMERICAN INDIAN AND ALASKA NATIVE FARMS AND RANCHES Total Value of Production

	American Indian or Alaska Native Operators	All Farms
Market value of products sold	\$3.3 billion	\$395 billion
Crop sales	\$1.4 billion	\$212 billion
Livestock sales	\$1.8 billion	\$182 billion
Average per farm	\$59,398	\$187,097

Source: U.S. Department of Agriculture National Agriculture Statistics Service

NUMBER OF FARMS WITH AMERICAN INDIAN OR ALASKA NATIVE OPERATORS: 2012

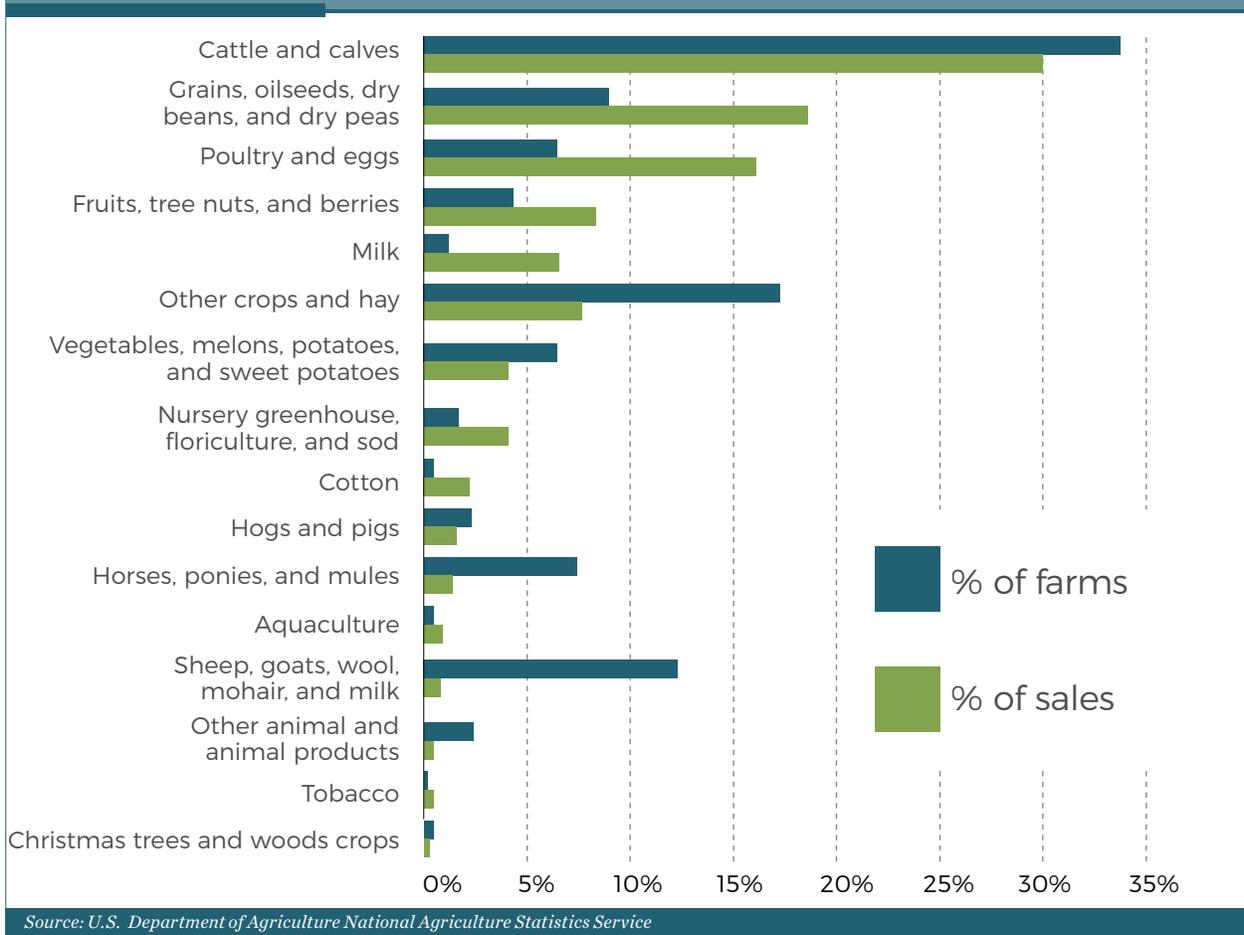


AMERICAN INDIAN FARMS AND RANCHES IN THE U.S.

	2007	2012
Total farms/ranches with Indian operators (farms)	61,472	56,062
Acres operated	58.1 million	57.2 million
Average acres per operation	946	1,020

Source: U.S. Department of Agriculture National Agriculture Statistics Service

SALES OF CROPS AND LIVESTOCK BY COMMODITY GROUP On American Indian Operations, 2012



TITLE I: COMMODITIES



Commodity policy is set in Title I. A commodity is generally defined as “a raw material or primary agricultural product that can be bought and sold.”¹⁶ This title provides programs for farmers who produce corn and other feed grains, wheat, rice, soybeans and other oilseeds, peanuts, and pulses crops (dry peas, lentils, chickpeas), dairy, sugar, and cotton. Historically, these have been known as “staple” crops and were generally considered to be crops whose abundance was important to national and, in some cases, global food security. In the early years of the Farm Bill, most federal farm policy was focused on these important crops. When agriculture became more mechanized and farmers began producing more of these staple crops, the economics (supply and demand) for such crops became volatile for farmers. Market fluctuations, the Great Depression, and the Dust Bowl were among the major factors that led to a shift in federal farm policy and passage of the Agricultural Adjustment Act of 1933, which began modern commodity policy.

Today, Title I focuses on income assistance and market attention and is passed with an eye towards U.S. trade goals and obligations under the World Trade Organization. Agriculture production provides a key trade balancing function for our overall economy. Even in times of great economic volatility, the trade of agriculture commodities in the global marketplace can have a stabilizing effect on the overall U.S. economy. Most countries throughout the world have some policies in place to protect their own farmers and encourage the growth of their own agriculture systems. Most trade deals include some degree of negotiations surrounding agriculture and commodities issues.

Under the most recent 2014 Farm Bill, income assistance to farmers is only provided in cases of significant yield losses in an area or deep price-based losses. Cotton was eliminated as a program crop. Dairy was transitioned to a margin protection program, and livestock producers were given additional protections. Spending on Title I programs is far less in recent years than it has been historically, and for the last decade, spending has

been less than one-quarter of one percent of the federal budget.

In the 2014 Farm Bill, the commodity programs were adjusted in numerous ways. Congress tried to respond to public sentiment to repeal several programs related to farm program payments. Direct payments to farmers were repealed while transition payments to cotton producers remained. Counter-cyclical payments were repealed and average crop revenue programs were as well. Alternative or replacement programs were created in the form of price loss coverage (PLC) and agriculture risk coverage (ARC) programs. Programs in this title provided support for upland cotton producers and created marketing assistance loans for covered commodities and for wool, mohair, and honey producers. Non-recourse loans, marketing allotments and other provisions were provided for sugar producers and the title also covered sections related to dairy. Upland cotton producers became eligible to participate in a new cotton crop insurance program under Title XI (Crop Insurance) which is the Stacked Income Protection Plan (STAX), and cotton producers receive transition payments under the law while the new crop insurance program is created. The payment limitations and the adjusted gross income limitations were amended under this title. Marketing Assistance Loan Programs are kept in place and the sugar program was left unchanged. Program participation in Title I can be very complex.

Title I of the Farm Bill provides very detailed Congressional direction to protect and support many key commodity crops grown in the U.S., and even goes so far as to identify market prices which link to the actual benefits that farmers receive when the market price shifts. In other words, the law specifies the market value at which the protection programs kick in when the market price falls below the congressionally established rate. This title creates the concept of “base acres,” which ties the producer to a set acreage over which program participation extends. Producers may choose individual or county-level farm revenue as the foundation for their participation in the ARC program.

Tribes participating in these programs must do so with a very deep understanding of the market, their costs of production, and the wide variety of risks they face. For tribes and Native producers who regularly produce commodity title covered crops or who participate in the commodities farm programs, a thorough analysis of Title I programs should be conducted every year. That analysis should take place alongside an analysis of crop insurance needs and a further adjustment of business plans and strategic outlooks to properly manage risk and market access.

When tribes are impacted by drought or other weather-related conditions, their knowledge of and participation in both the Title I programs and crop insurance can spell the difference between weathering the storm or failure of the business. All tribes or individual tribal members who suffer livestock and forage losses due to drought or other weather-related circumstances need to act to ensure they attempt to recoup those losses. And equally important, each tribe or individual Native producer who anticipates they will engage in commodity programs must ensure that their land base production is included in the USDA program records, because it provides the basic building for inclusion in the commodity programs. Some tribes have done this effectively and efficiently over the years, while other tribes are just learning the processes. Currently, some tribes are engaging in new relationships with USDA to ensure that all their applicable acreages are included in such programs (as appropriate) and are entering into cooperative agreements that ensure applicable tribal land records are transitioned into the program records as effectively and efficiently as possible.

Payment limitations (i.e., limiting of levels of program funding that can be received by those using the farm programs) are set in the 2014 Farm Bill at

\$125,000 for everyone “actively engaged in farming” but with specific limits for individual program participation. A spouse may receive an additional \$125,000. A separate \$125,000 limit is provided for payments for peanuts under these programs. Cotton transition payments are limited to \$40,000 per year. Benefits under the federal crop insurance program and the new 2014 Farm Bill-created Supplemental Coverage Option (SCO) and the Stacked Income Protection Plan (STAX) program for upland cotton producers have no payment limitations. The limit on eligibility to receive farm program benefits no longer distinguishes between farm and nonfarm income. Under the single adjusted gross income (AGI) limit, any individual with an annual AGI above \$900,000 (including nonfarm income) is ineligible to receive

farm program payments under commodity or conservation programs.¹⁷ Again, tribes and individual tribal producers participating in Title I farm programs must keep an eye on the payment limitation provisions of current and

any future Farm Bills as many voices within farm policy debates have targeted payment limitations for years in efforts to ensure that those engaged in farming with the highest need for such assistance are actually the ones receiving some.

After significant debate on the House floor, the Sugar Program that was passed in the 2008 Farm Bill – including the feedstock flexibility component in the Energy Title – was reauthorized until 2018 without changes.

On dairy, the 2014 Farm Bill continues the move away from subsidy programs and towards risk management programs for dairy producers, such as the margin protection program. Producers must choose margin coverage levels, as well as make premium payments. The Margin Protection Program (MPP) for dairy producers introduces a margin insurance program that provides benefits to

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That analysis should take place alongside an analysis of crop insurance needs and a further adjustment of business plans and strategic outlooks to properly manage risk and market access.

dairy producers when the difference between milk prices and feed costs falls below a target margin. The Dairy Product Donation Program (DPDP) requires the Secretary of Agriculture to purchase dairy products at market prices for donation to nutrition programs whenever the margin between milk prices and feed prices falls below the minimum margin specified under the MPP. The Dairy Product Price Support Program (DPPSP) and Dairy Export Incentive Program (DEIP) were repealed. The Milk Income Loss Contract (MILC) Program was extended retroactively to October 1, 2013, and remains in place until the MPP is operational, but no later than September 1, 2014. By offering an insurance-based program to dairy producers, they were able to choose coverage levels based on their willingness to pay for risk protection.

Although the bill does not reauthorize the Supplemental Revenue Assistance Program (or SURE) present in previous farm bills, it retroactively reauthorizes the disaster assistance programs that were in the 2008 Farm Bill, and makes them permanent. So, the Livestock Indemnity Program (for livestock losses from adverse weather or attacks

by federally reintroduced animals), the Livestock Forage Disaster Program (for losses resulting from drought or fire), ELAP – Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish (assistance for losses not covered in the two previous programs), and the Tree Assistance Program (protection for orchardists and tree growers against plant diseases, insect infestations and natural disasters) are all now permanent programs.

Livestock Indemnity and the other disaster programs made permanent are very important to Indian Country farms and ranches, since more than half of all income from agriculture in Indian Country comes from livestock production. In addition, retroactive coverage of losses incurred in fiscal years 2012 and 2013 assisted producers affected by both the historic 2012 drought and the October 2013 blizzard in South Dakota. Finally, the issues surrounding Country of Origin Labeling (COOL) regulations remained in place and were extended to include venison (Title XII). COOL labeling issues are extremely important for tribal herds and tribal livestock programs that wish to distinguish their products in the marketplace.



WHY SHOULD INDIAN COUNTRY CARE?

First and foremost, regardless of which side of the debate you are on commodity price and income support programs, COOL, or payment limitations, the reality is that there are many tribal governments and tribal farming, ranching and food businesses that are already engaged in producing covered commodity crops of wheat, corn, soybeans, and are deeply engaged in livestock operations impacted by the livestock provisions of Title I. This means that Indian Country, writ large, cannot turn its back on those among us whose very food and agriculture businesses hinge on the continued presence of these programs. What we can be concerned about is that these programs are equitably accessible by tribal producers and that our voices are heard as the programs are discussed and either amended or reauthorized.

Second and equally important, many of the tribal lands that are leased to non-Native producers or other Native producers are engaged in the production and raising of these crops and livestock. The income derived from such leases is inextricably intertwined with the prices our lessees ultimately receive for these crops and livestock sales.

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The reality is that there are many tribal governments and tribal farming, ranching and food businesses that are already engaged in producing covered commodity crops of wheat, corn, soybeans, and are deeply engaged in livestock operations.

According to NCAI (in a 2013 document discussion of Farm Bill recommendations):

Commodity Programs provide income or other types of support (“safety net”) to farmers that grow the major commodity crops — wheat, corn, soybeans, cotton, and rice. The title includes programs to help farmers manage production risks, including volatile weather and natural disasters, as well as market fluctuations.

With a growing investment in crop insurance that is mandated by lending agents, tribal agriculture relies on the risk-based programs in this title to recover from environmental and climate changes that affect agriculture production. Many tribal governments engage in the food and agriculture sector through the ownership and operation of farms and ranches, either directly as branches of their tribal government or through related business enterprises. Many of these farms and ranches are and have been the recipient of farm program payments, crop insurance subsidies, livestock indemnity payments, disaster payments, conservation cost-share payments and related programs known as “farm subsidies.” Indian Country cares and supports that those programs be maintained, because the most significant and most successful tribal farms and ranches are regular recipients of the benefits of

AMERICAN INDIAN FARMS AND RANCHES Income Statement Sheet		
	2007	2012
Market value of products sold	\$3.2 billion	\$3.2 billion
Government payments received	\$90 million	\$90 million
Total production expenses	\$2.9 billion	\$2.9 billion
Net cash farm income	\$513 million	\$371 million
Average net cash income per farm	\$8,351	\$6,632

Source: U.S. Department of Agriculture National Agriculture Statistics Service

those programs. Through those programs, jobs are created on reservations and Indian land base and the natural resources are maintained, improved, and protected. Many tribes have built strong and resilient agricultural production businesses, but need continued access to farm program payments and other safety net programs to ensure the continued growth and vitality of those businesses in volatile market situations and natural disasters.¹⁸

EXAMPLES OF OPPORTUNITIES IN THE COMMODITY TITLE

Supplemental Agricultural Disaster Assistance Programs – Definitions

An amendment to the definition of “eligible producer on a farm” in Section 1501(a)(1)(B)(iv) should be made to include an individual tribal member, tribal government, or other tribal entity that assumes the production and market risks associated with the agricultural production of crops or livestock and to include in the definition of entities a “corporation, limited liability corporation, or other farm organization structure organized under state or tribal law. This will acknowledge the authority of organizations organized under tribal law.

The list of included “livestock” (Section 1501(a)(3)) already includes many of the livestock raised by tribal producers, like horses, but does not include such species as “reindeer,” “caribou,” “elk,” or other livestock commonly raised in tribal communities.

Livestock Indemnity Payments

Under Section 1501(b)(1), payments may be made from Commodity Credit Corporation (CCC) funds to eligible producers who have incurred livestock death losses above the normal mortality rate if they are caused by attacks from animal reintroduced into the wild by the federal government or protected under federal law or “adverse weather.” The payment rates included under Section 1501(b)(2) are set at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death. This section should be amended to allow for 90 percent loss rate coverage for tribal-owned livestock to address the lack of land equity that exists for tribal producers, with the exception of allotted lands. This heightened rate of loss coverage is also needed due to the unique challenges tribal livestock producers have in obtaining secure markets for their animals, thus causing a generally lower rate of market return for their livestock.

Livestock Forage Disaster Program

Under Section 1501(c), covered livestock includes most circumstances reflecting the ownership or control of livestock by tribal producers. However, the terms under which “eligible livestock producer” are covered under the disaster program may not cover every possible circumstance under which tribal producers engage in either livestock ownership or through which they participate in leases of their lands, as managed or controlled by the Bureau of Indian Affairs. The instances relating to “normal carrying capacity” (also a requisite for participation in the program) may inadvertently

2012 TOP CROP ITEMS, RANKED BY ACRES On American Indian Farms and Ranches

	FARMS	ACRES
Forage	15,514	1,169,253
Winter wheat for grain	1,141	371,074
Corn for grain	1,968	305,398
Soybeans for beans	1,613	257,909
Spring wheat for grain	206	148,393

Source: U.S. Department of Agriculture National Agriculture Statistics Service

exclude some tribal producers if the Bureau of Indian Affairs does not negotiate or recognize the specific environmental or other variances which impact production. For these reasons, an additional (F) section should be included in the program that ensures that all tribal producers remain or become eligible to participate in the forage disaster loss program. Possible language could include:

“Nothing contained in this section, nor in actions of the Secretary implementing the livestock forage disaster program shall exclude the participation and coverage conditions relating to tribal producers, tribal livestock production, tribal forage lands, and the Secretary of Agriculture and the Secretary of Interior shall ensure that USDA and the Bureau of Indian Affairs (respectively) implement regulations coordinated in such a way that ensures full tribal producer landowner participation in the program. In addition, the Secretary shall ensure that the lack of appropriate drought monitoring or weather monitoring equipment on tribal lands is not an impediment to the participation in the program and shall use such funds as are available under the CCC to provide weather monitoring capabilities on tribal lands throughout the United States.”

Eligibility can be readily determined by Indian tribes.

Finally, due to the unique challenges facing tribal livestock and forage producers, all other provisions of the program shall ensure that payment rates are set at 90 percent levels (as opposed to any lower rates identified in the law for non-tribal producers).

Farm Service Agency County Committee

Farm Service Agency (FSA) County Committee determinations on normal grazing periods and drought monitor intensity should be amended to ensure that separate carrying capacities and normal grazing periods for each type of grazing land or pastureland are set at different rates for tribal lands and are established by the national office of the Farm Service Agency (not at the county committee level).

Further, such determinations must be established at rates that are reasonable and appropriate to tribal lands, not to the county lands that fall under the jurisdiction of the county committees. In addition, changes to normal carrying capacity or normal grazing periods related to tribal lands should be established also by the national Farm Service Agency headquarter offices and not by state or county officials. These rates should be established after tribal consultation and must be established after discussions with the Bureau of Indian Affairs as well. All payments that eligible livestock producers who own or lease lands may be entitled to under the program that are within tribal jurisdiction should be controlled by the national headquarter Farm Service Agency offices and not by the state or local (county) officials.

Additionally, any losses due to fire on “public managed land” while included in the program for coverage are only allowed if the losses are on rangeland that is managed by a federal agency and the producer is prohibited by the federal agency from grazing the normal permitted livestock numbers on the managed rangeland due to fire. Tribal producers should not be interpreted to be affected by this section as their lands are not “public” lands.

The makeup of county committees has been contentious for many decades. Many FSA county committees and the local administration areas around the country do not reflect their membership of the race, national origin, sex, or other characteristics of the producers and landowners eligible for FSA programs within the county. In fact, there are many counties which are predominately made up of Native American citizens that don’t have any Native people voted onto the committee because they are not systematically included in the balloting and nomination process. Because county committees wield so much power over the implementation of commodity and other programs (e.g., credit) relating to production and lands within the county, a new approach is needed to ensure that tribal representation is required on county committees. To do so, FSA should be



required to do an assessment based on Census data and Agricultural Census data to determine the population makeup of the county, and should be required to devise a way, in consultation with tribal governments, to ensure that tribal members are effectively and efficiently notified of the opportunity to be nominated and considered for county committee membership. FSA should require all county committees in predominately tribal population areas and/or tribal land base areas be predominately Native in membership. While this is equally important to many other populations around the country, not enforcing this requirement within the county committee context is a direct violation of the federal trust responsibility. Some FSA county committees have already moved in that direction, but ensuring that all remaining committees accomplish this goal is necessary.

Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish

Under Section 1501(d), additional assistance is made available from no more than \$20 million in CCC funds for emergency relief to eligible producers of livestock, bees, and farm-raised fish. These losses can be due to disease, adverse weather, blizzards, wildfires, or other conditions (in addition to drought or fire covered elsewhere). The section should be

amended to require that the Secretary ensure that all tribal land owners or tribal producers are fully eligible to participate in this program.

Trees

Additional assistance is created for tree owners in Section 1501(e). Under this provision, tribal producers should be made eligible for 80-90 percent of the cost of replacement, salvage, pruning, removal, or preparing the land or replanting to ensure that the higher cost of providing these remediation activities on tribal lands is accommodated within the limitations of the program and tribal governments, tribal business entities organized under tribal law and tribal producers should all be recognized as “legal entities” and “persons” allowed to participate in the program.

Rulemaking Related to Significant Contribution for Active Personal Management

Section 1604 concerning the passage of regulations related to “active personal management” or “active engagement in farming/ranching” should be amended to recognize that tribal producers, tribal business entities, and tribal governments should not be excluded from any determination of “active personal management/engagement” simply by the

existence of an active lease relating to their lands. Instead, the Secretary (through Farm Service Agency) should be required to engage in tribal consultation concerning the application of this requirement to tribal producers. Such consultation – as required under Executive Order 13175 and federal law – must also involve the Bureau of Indian Affairs (BIA), and must also include relevant tribal organizations knowledgeable of these issues as well as tribal elected officials from each BIA region. The purpose of this consultation and subsequent unique requirements is to ensure that tribal producers and entities are not adversely affected when passing regulations related to all other producers.

Geographically Disadvantaged Farmers and Ranchers

Section 1606 regarding “Geographically Disadvantaged Farmers and Ranchers” was amended in 2014 by changing the effective dates of the provisions from 2009 through 2012 to 2009 and each succeeding fiscal year. Section 1621 of the 2008 Farm Bill (Food, Conservation, and Energy Act of 2008) created a program through which

geographically disadvantaged farmers or ranchers could receive direct reimbursement payments for transportation of an agricultural commodity, or inputs used to produce an agricultural commodity occurring over a distance of more than 30 miles. Authorization of such payments was not allowed to exceed \$15 million per fiscal year. While “insular areas” were explicitly covered in the program, this section should be further amended to ensure that tribal governments, tribal entities, and tribal producers are explicitly recognized as farmers or ranchers eligible to participate in the program.

Base Acres

Finally, as to the determination and election of “base acres” applicable to all programs under the Commodity Title, a provision requiring that the Secretary ensure, upon consultation with tribal elected officials by the Farm Service Agency, that base acre regulations not adversely affect tribal producers, tribal governments, or tribal entities involved in agricultural operations who elect to participate in programs covered under the Commodity Title.



TITLE II: CONSERVATION



As noted previously, conservation was one of the primary purposes of the original Farm Bill through incentives created to allow farmers to cut back on their acreage during periods of extreme weather conditions. Starting in the Dust Bowl days of the 1930s, the United States Department of Agriculture (USDA) and what was to become the Natural Resource Conservation Service (NRCS) organized and worked with locally led Soil and Water Conservation Districts to help farmers with terraces, shelterbelts, and other conservation techniques. In the 1950s, a “soil bank” was created to put the most highly erodible ground back into grass or other conservation uses. In the 1970s, new authorities were created to help farmers as other laws like the Clean Water, Clean Air, and the Endangered Species Acts came into existence. Spending on conservation programs has grown to roughly \$5 billion per year. These programs are important tools for farmers, because conservation practices often do not translate to profit. From its desperate beginnings in the Dust Bowl, the NRCS has worked with farm families to create the most sustainable and efficient agricultural industry in history.

The 1985 Farm Bill created, for the first time, a Conservation Title with the Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP). Since 1996, the Conservation Title has focused more on working lands cost-share assistance through programs such as the Environmental Quality Incentives Program (EQIP), the Wildlife Habitat Incentives Program (WHIP), and the Conservation Security Program (CSP). The Conservation Title did sustain cuts in the 2014 Farm Bill. In every Farm Bill since 1985 – 1990, 1996, 2002, and 2008 – the investment in conservation has increased. The size of the cut in the 2014 bill exceeds the gains from the 2008 bill, but still shows a substantial investment in conservation practices. However, the investment is not likely enough to keep up with the nation’s conservation needs.

In general terms, the 2014 Farm Bill streamlined and merged several of its previous programs, resulting in about \$6 billion in savings over 10 years. The

Congressional Budget Office estimates that between Fiscal Years 2014 and 2018, mandatory spending on USDA conservation programs will decline by \$200 million – less than 1 percent of the \$28 billion that would have been spent if the 2008 Farm Bill programs continued through 2018. All major conservation programs, except for Conservation Technical Assistance, have mandatory funding. The Conservation Reserve Program (CRP) acreage cap was reduced to 24 million by 2017. Current enrollment has fallen to 25.6 million acres, and up to 2 million acres of grassland can be enrolled. Funding for the Environmental Quality Incentives Program (EQIP) and the Conservation Stewardship Program (CSP) is increased. The Wildlife Habitat Incentives Program is repealed, although 5 percent of EQIP funds will be set aside for habitat-related practices.

The new Agricultural Conservation Easement Program (ACEP) consolidates the Wetland Reserve Program, Grassland Reserve Program, and the Farmland Protection Program, and now has just two conservation components: Agricultural Land Easements and Wetland Reserve Easements. However, funding for the program is just over half of what was provided for these three programs in the 2008 Farm Act. The new Regional Conservation Partnership Program (RCPP) is designed to coordinate conservation efforts across states and various programs to solve problems that must be addressed on a broader scale. RCPP consolidates functions of the Agricultural Water Enhancement Program, Chesapeake Bay Watershed Program, Cooperative Conservation Partnership Initiative, and the Great Lakes Basin Program.



The final 2014 Farm Bill retains the existing cost-share differential for beginning, limited resource, and socially disadvantaged producers in the Environmental Quality Incentives Program (EQIP), and increases the amount of an EQIP contract that a farmer can receive in advance from 30 to 50 percent. This advance payment can be used to cover the up-front costs of a project for the purposes of purchasing materials or contracting services, which is crucial for many new farmers with limited cash flow. In addition, the 2014 Farm Bill also maintains a 60 percent allocation for livestock production, retains the existing set-asides of dedicated funding for beginning and socially disadvantaged farmers both within EQIP and the Conservation Stewardship Program, and expands these conservation incentives to include veteran farmers. The conservation loan program is retained and increases the guarantee rate for a conservation loan to 90 percent for beginning and underserved farmers (on par with other federal farm loan programs) and 80 percent for other borrowers. The final bill also increases funding for the Conservation Reserve Program—Transitions Incentives Program (CRP-TIP), which incentivizes retiring landowners to rent or sell their farmland to beginning and socially disadvantaged farmers. This program was established in 2008, and due to high demand, ran out of program funding in 2012. Military veteran farmers will also be newly eligible for this program.

The 2014 Farm Bill included \$10 million for wetland banking so that producers who drain and fill wetlands can buy credits to partially mitigate environmental degradation. Producers whose actions impacted wetlands are able to receive crop insurance subsidies without having to mitigate prior actions taken to drain or fill wetlands, and producers who receive federally subsidized crop insurance are required to self-certify that they comply. Importantly, the 2014 Farm Bill added tribes as eligible entities to cooperate and participate in the Soil and Water Resource Conservation Act, which provides assessments and planning for the conservation and enhancement of soil, water, and natural resources. In the past, USDA has worked

with NCAI to gather input from Tribal Nations on conservation issues, as well as to identify barriers to tribes' participation in conservation programs.

This Conservation Title also aided producers and landowners to adopt conservation activities on agricultural and forest lands designed “to protect and improve water quality and quantity, soil health, wildlife habitat and air quality.” These practices are based on technical standards. The conservation title programs are designed to address working lands, forestlands, grasslands, and wetlands, and to protect natural resources on those lands. Provisions within the title also allow for permanent land retirement. Under previous law there were 23 different programs focused on conservation, and the 2014 Farm Bill lowers that level to 13.

Conservation Reserve Program continues financial assistance to producers who meet stewardship requirements on agricultural and forest lands. The 2014 Farm Act raised the requirements for CSP enrollment to meeting the stewardship threshold for two resource concerns.

Noneasement functions of the **Grassland Reserve Program**, created under previous Farm Bills, is now carried out through the Conservation Reserve Program and grassland enrollment of up to 2 million acres is authorized.

Crop Production on Native Sod Program is for producers who choose to till native sod, and would reduce crop insurance premium subsidies and limit the yield or revenue guarantee available during the first four years of crop production on native sod that had not been previously tilled. The new provision applies only to native sod in Minnesota, Iowa, North Dakota, South Dakota, Montana, and Nebraska.

Environmental Quality Incentives Program continues financial assistance for producers to install and maintain conservation practices on eligible agricultural and forest land. **The Wildlife Habitat Incentive Program**, created under previous Farm Bills, was merged into the Environmental Quality



Incentives Program, with at least 5 percent of funds set aside for wildlife habitat-related practices.

Agricultural Conservation Easement Program is a new program that was created to allow for permanent easements for restoration and protection of on-farm wetlands and to protect eligible agricultural land from conversion to nonagricultural purposes. ACEP consolidates the previous Wetlands Reserve Program, the easement portion of the Grassland Reserve Program, and the Farmland Protection Program. Land enrolled in those programs will roll over to the new ACEP but the funding for the new ACEP is significantly reduced.

Regional Conservation Partnership Program is designed to coordinate conservation program assistance within regions to solve regional-level problems. The RCPP consolidates the previous Agricultural Water Enhancement program, the Chesapeake Bay Watershed Program, the Cooperative Conservation Program, and the Great Lakes Basin Program.

Conservation of Private Grazing Lands Program was extended until 2018.

Comprehensive **Conservation Enhancement Program, Emergency Forestry Conservation Reserve Program, and the Environmental Easement Programs** created under previous Farm Bills were repealed.

Grassroots Source Water Protection Program was extended until 2018.

Voluntary Public Access and Habitat Incentive Program, while extended until 2018, was also required to conduct a study of the effectiveness of the program. However, from the beginning of the program, the bulk of activities were conducted through state agencies and organizations and, as such, the ability of tribal governments to take full advantage of the program to improve the access of the public to their lands was not fully incorporated into the framework of the program. This lessened the program's effectiveness on tribal lands and in some cases, ensured that tribal lands were not incorporated into the original purpose of the program.

Agriculture Conservation Experience Services Program, while mentioned in the 2014 Farm Bill, was clarified in terms of requiring that Conservation Reserve Program funding could not be used for the Agriculture Conservation Experience Services Program.

Small Watershed Rehabilitation Program was extended until 2018.

Terminal Lakes Assistance, a new program included in the 2014 Farm Bill, sought to clarify the use of the funds for waters with no natural outlet that are prone to flooding, requiring federal assistance.

Soil and Water Resource Conservation Act program was amended to include tribes in most aspects.

The 2014 Farm Bill adds crop insurance premium subsidies to the list of benefits that could be withheld for noncompliance with conservation provisions, thus maintaining farmer incentives for environmental stewardship. Producers who fail to apply approved soil conservation plans on highly erodible cropland or who drain wetlands could become ineligible for all or part of several agricultural programs, including commodity programs, conservation programs, disaster assistance, and now crop insurance premium subsidies. In recent years, the value of such subsidies rose sharply along with the premium subsidy rate, crop insurance participation, and commodity prices.

WHY SHOULD INDIAN COUNTRY CARE?

The lands within Indian Country are in significant need of intensified conservation practice implementation. Yet, even with multiple efforts across previous Farm Bill negotiations, the NRCS conservation program portfolio still needs attention so that the programs and authorities can be more effective on tribal lands. It is well known that NRCS programs that are based on the granting of conservation easements will not work on tribal lands, as the Bureau of Indian Affairs will not approve of the granting of easements on these unique lands. That issue was tackled in previous Farm Bills but allowing, instead of an easement, that the landowner could enter into a 30-year agreement to gain access to the conservation-cost share programs available under NRCS authorities granted in the Farm Bill. However, even granting 30-year agreements (for the imposition of approved cost-share practices), significant acres of tribal lands are still in dire need of conservation project

implementation. This is complicated further as some lands which fall under Bureau of Indian Affairs jurisdiction are limited to lease terms of only 25 years. Some of this need arises from the reality that most of the known landowners must sign off on the creation of these conservation projects. Due to the

numbers of highly fractionated interest in the land, and the number of fractionated landowners who live off tribal lands, such requirements can be almost impossible to execute and accomplish.

In 2013, NCAI issued a list of recommendations for future Farm Bills and included key provisions related to conservation:

Conservation legislation provides for environmental stewardship of farmlands and improved management practices through a range of land retirement and/or working lands programs, among other programs geared to farmland conservation, preservation, and resource protection. Working lands programs include: Environmental Quality Incentives Program (EQIP) and Conservation Stewardship Program (CSP). Land retirement programs included: Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP), among others.

Tribal governments have proven their efficient administration and use of funds for their natural resource programs. Surrounding economies also benefit from the leadership and commitment of tribes toward stewardship of natural resources. Conservation programs are known to stabilize the agricultural economies of state and local governments, and inclusion of tribes in these programs would leverage tribal expertise and develop rural economies both on and off tribal lands.

However, not all conservation programs or funding is available to tribal governments even though such programs and funding are available to state and local governments.

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The lands within Indian Country are in significant need of intensified conservation practice implementation.

In addition to the suggested language below, the Natural Resources Conservation Service should be encouraged, either through direct legislative language or in manager's report language, to continue its work in ensuring that tribes are involved in developing traditional ecological knowledge-based (TEK-based) technical standards for implementation of conservation programs on tribal lands and that sufficient funds are set aside at each field office in the NRC agency to address conservation needs in Indian Country. Finally, special attention should be paid to ensure that in the efforts to provide protection to endangered or threatened species through utilization of WHIP program funds, that critical funding to improve habitat for subsistence species upon which many rely as their food sources is maintained.

Congress should expand parity and access to federal conservation programs by amending the Soil and Water Resource Conservation Act to include tribal governments in the conservation programs that currently only include state and local governments. By explicitly including tribes in programs that already exist for state and local governments, tribal governments and tribal economies can reach parity and support the surrounding economies.

The result would enhance cooperation among all governments managing rural lands and result in streamlined approaches for better use of federal resources to enhance economic development and create jobs. The recommended provisions provided below allow for the building of tribal technical capacity and include tribes in the Soil and Water Resource Conservation Act programs. State and local governments have historically benefited from this assistance while tribes have been excluded.

Amend the Soil and Water Resource Conservation Act, 16 U.S.C. §2001 et. seq. as follows Subtitle F – Other Conservation Programs Section 2607. Indian tribes should be given access to all programs within the section as on an equal basis as other entities. The effect of this overarching section is shown below with the new language in bold italics.

Amend the Soil and Water Resource Conservation Act, 16 U.S.C. §2001 et. seq. as follows: § 2003 Congressional policy and declaration of purpose... (b) Full utilization of cooperative arrangements with state and tribal agencies. Recognizing that the arrangements under which the federal government cooperates with state and tribal soil and water conservation agencies and other appropriate state and tribal natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this chapter consistent with the roles and responsibilities of the non-federal agencies, landowners and land users. (c) Attainment of policies and purposes The Secretary shall promote the attainment of the policies and purposes expressed in this chapter by—.... (2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the soil, water, and related resources of the Nation consistent with the roles and program responsibilities of other federal agencies and state, tribal and local governments. §2004 Continuing appraisal of soil, water, and related resources (a) Data. In recognition of the importance of and need for obtaining and maintaining information on the status of soil water, and related resources, the Secretary is authorized and directed to carry out a continuing appraisal of the soil, water, and related resources of the Nation. The appraisal shall include, but not be limited to... (4) data on current federal and state, and tribal laws, policies, programs, rights, regulations, ownerships, and their trends and other considerations relating to the use . . . (b) Collection of data. The appraisal shall utilize data collected under this chapter and pertinent data and information collected by the Department of Agriculture and other federal, state, tribal and local agencies and organizations. The Secretary shall establish an integrated system capable of using

combinations of resource data to determine the quality and capabilities for alternative uses of the resource base and to identify areas of tribal, local, state, and national concerns and related roles pertaining to soil and water conservation, resource use and development, and environmental improvement. (c) *Public participation.* The appraisal shall be made in cooperation with conservation districts, state and tribal soil and water conservation agencies, and other appropriate citizen groups, and tribal, local and state agencies under such procedures as the Secretary may prescribe to insure public participation. § 2005. *Soil and water conservation program (a) Program development.* The Secretary is hereby authorized and directed to develop in cooperation with and participation by the public through conservation districts, state, tribal and national organizations and agencies, and other appropriate means, a national soil and water conservation program (hereinafter called the “program”) to be used as a guide in carrying out the activities of the Secretary which assist landowners and land users, at their request, in furthering soil and water conservation on the tribal, private and non-federal lands of the Nation. The program shall set forth direction for future soil and water conservation efforts of the United States Department of Agriculture based on the current soil, water, and related resource appraisal developed in accordance with section 2004 of this title, taking into consideration both the long- and short-term needs of the Nation, the landowners, and the land users, and the roles and responsibilities of federal, state, tribal and local governments in such conservation efforts. The program shall also include but not be limited to — (1) analysis of the Nation’s soil, water, and related resource problems; (2) analysis of existing federal, state, tribal, and local government authorities and adjustments needed; (3) an evaluation of the effectiveness of the soil and water conservation ongoing programs and the overall progress being achieved by federal, state, tribal and local programs and the landowners and land users in meeting the soil and water conservation objectives of this chapter; (4) establishing a Cooperative Working Agreement with Tribal Conservation Districts to staff a District Coordinator position to do outreach and assistance to tribes, and tribal member farmers and ranchers. §

2008. *Utilization of available information and data.* In the implementation of this chapter, the Secretary shall utilize information and data available from other federal, state, tribal and local governments, and private organizations and he shall coordinate his actions with the resource appraisal and planning efforts of other federal agencies and avoid unnecessary duplication and overlap of planning and program efforts.¹⁹

EXAMPLES OF OPPORTUNITIES IN THE CONSERVATION TITLE

Equivalent USDA and BIA Conservation Plan

A new section of the Conservation Title should be created that specifically states that a Conservation Plan prepared under the auspices of the Natural Resources Conservation Service shall be the equivalent of and required to be accepted by the Bureau of Indian Affairs (BIA) as fully accepted for any BIA requirement of an environmental assessment of tribal lands (either owned or under the jurisdiction of a tribal government) for purposes of implementation of an Agricultural Resource Management Plan under the American Indian Agricultural Resources Management Act of 1993 and any regulations implementing such Act or any subsequent amendments to said Act.

Recognition of Traditional Ecological Knowledge-Based Conservation

A new section of the Conservation Title should be created that explicitly allows a tribe or a group of tribes within a state or region to develop traditional ecological knowledge-based technical standards and those standards shall control the implementation of all conservation projects allowed under the Farm Bill. This new section would codify current NRCS practices and would further recognize the fact that tribal jurisdiction and use of traditional practices to improve conservation project implementation are decisions best left to the tribal governments and organizations that live on those lands and are engaged in ongoing activities that are designed to



improve environmental conditions on the ground, improve habitats, and improve their lands for agricultural purposes. These traditional ecological knowledge-based standards already have a solid scientific basis and are acknowledged by various federal research organizations and agencies.

CRP Land Availability for Beginning Tribal Farmers and Ranchers

A new section of the Conservation Title should be created that will allow the use of CRP land or other lands engaged in conservation practices to be used by tribal members who are beginning farmers and ranchers in ways that do not damage the conditions of the land or resources.

Include Tribal Priorities in Definition of Priority Resource Concerns

The definition of “Priority Resource Concerns” in Section 1238D(5) should be amended to include any natural resource as determined by the Secretary that is identified at the national, state, tribal or local level as a priority for a particular area of a state or tribal area.

Allow Lands Held in Common and by Tribal Entities to Access Conservation Programs

A new section of the Conservation Title should be created to ensure that lands held in common, such as those lands on certain reservations that are controlled and farmed/ranched by groups of individuals can participate in all Conservation Title programs and that special provisions are enacted in regulations to ensure that any tribal government-allowed entity is the recognized conservation program participant (as opposed to specific individuals).

Priority for Enrollment of Tribal Lands in the Conservation Reserve Program

Section 2001 of the 2014 Farm Bill establishes priorities for the Secretary to consider when implementing the Conservation Reserve Program and Conservation Priority Areas. Due to the prolonged periods that tribal lands have been under-enrolled in conservation programs and due to the needs of those acres and watersheds to have focused

attention on enrollment in conservation programs and utilization of conservation practices on those lands, all tribal lands falling under the jurisdiction of the Bureau of Indian Affairs, tribal governments, tribal agricultural entities, and individual tribal producers and landowners or land operators, should receive mandatory priority consideration for all conservation programs authorized in the upcoming Farm Bill. Further priority will be given to beginning farmers and ranchers seeking to establish or re-establish working lands activities on tribal lands and commercial activities related to the re-establishment of working lands or the emergence of beginning farmers and ranchers who are tribal members utilizing those working lands.

In any ranking activity conducted by NRCS officials to determine which lands or resources to enroll in a conservation program allowed under this title, the Secretary and/or state conservationists or technical committees (state or tribal) shall give priority to tribal lands for enrollment in relevant programs, provided these lands or resources also meet requirements for inclusion in the programs.

Notice Regarding Conservation Activities

All conservation activities occurring on tribal lands utilizing any of the Conservation Title programs should be required to ensure that knowledge of enrollment and conservation practices has been provided to all parties (Bureau of Indian Affairs, the lessee and lessors of the land, and tribal governments), and that all parties are given an opportunity to concur in the practice. In addition, such conservation activities will be required to be in conformance with the tribal governments' Agricultural Resource Management Plan, if one is in place.

Recognizing Tribal Law Parity

Within the Conservation Title, any reference to "state law" shall be amended to say "state law or tribal law" and any reference to "state technical committee" shall be amended to reflect "state technical committee or tribal technical committee."

Tribal Technical Committee

Each State Conservationist shall be required to establish a separate tribal technical committee should any tribal headquarters exist within their state boundaries or any land under the jurisdiction of tribal governments or the Bureau of Indian Affairs. These tribal technical committees shall be given the same respect and deference that is currently given to the state technical committee and each tribal technical committee shall be able to establish separate technical standards utilizing

traditional ecological knowledge and, to the extent that they do so, such standards shall be the technical standards under which conservation programming can be deployed on tribal lands.

No Additional Compensation for Expired Conservation Measures

When a conservation practice installed on tribal land or lease/permit expires, no individual tribal member or tribal government or tribal entity shall be required to compensate the former lessee of the tribal lands for the installation or maintenance of such practice since those practices have already been the subject of cost share with the federal government. Any further payment to lessees or users of the lands would constitute a windfall or unjust enrichment to such user of the land.

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Each State Conservationist shall be required to establish a separate tribal technical committee should any tribal headquarters exist within their state boundaries or any land under the jurisdiction of tribal governments or the Bureau of Indian Affairs.



NRCS Report on Natural Resource Inventory Investments Needs on Tribal Lands

The USDA-NRCS shall immediately develop a report to be delivered to the Bureau of Indian Affairs and made public to all tribal governments identifying which tribal lands are still in need of a proper Natural Resource Inventory investment of funding support to create a baseline of needs for said lands.

Traditional Ecological Knowledge Consideration for Conservation Compliance

Traditional ecological knowledge shall be considered whenever the Secretary determines the level of compliance of landowners who have lands or resources enrolled in any of the Conservation Title programs, particularly when determining whether a meaningful stewardship threshold has been reached.

BIA Actions Responsible for Non-Compliance

No tribal landowner or operator of lands shall be determined to be in violation of any term of a conservation program enrollment requirement when the Bureau of Indian Affairs can be established as the cause for any alleged non-compliance, whether through delay in action, other non-action in decision-making requirements, or any other reason.

Tribal Priority in EQIP

In addition to the 5 percent tribal set-aside, priority consideration should be given to tribal governments, tribal entities, and tribal landowners and operators to participate in EQIP program activities. This priority shall be widely advertised throughout each state in which the lands are located and each tribal headquarters in the state shall receive notice of all activities related to the EQIP program. Tribal landowners and operators shall be entitled to additional priority for any activities related to organic and organic transition practices on their

farms and ranches. Each tribal government shall be invited to at least two meetings with the state conservationist in a government-to-government conversation concerning the implementation of NRCS conservation programs that could be beneficial to tribal lands. When requested by tribal headquarters, the state conservationist shall enter into cooperative agreements and other activities that will establish a plan by which NRCS programming will be deployed on tribal lands for which the tribal government has an ongoing plan for conserving and protecting habitat, grasslands, rangelands, and other lands and land uses within tribal jurisdiction. The state conservationist shall communicate directly with the relevant regional and national BIA offices in tandem with tribal headquarters to ensure that the maximum efficiency and effectiveness be utilized in the implementation of conservation programs on tribal lands.

Tribal Parity in the Conservation Title

All sections of the Conservation Title should include a provision allowing tribal governments, tribal

producers, and tribal entities or organizations created for conservation and natural resource protection purposes to have full access to every program allowed under the Conservation Title. Wherever reference is made to “state” or “local” or “regional” or agricultural producer, the terms “tribal” shall be inserted into that section to ensure that inadvertent failure to list tribal governments, tribal producers, or tribal organizations does not preclude them from participating or relegate them to a lesser importance or lesser priority or position within the relevant section.

Technical Assistance Funding for Tribal Governments and Organizations

Due to the relatively low use of all conservation programs on tribal lands, the Secretary should be given the authority to create a permanent fund within the available technical assistance funding authorities, appropriations, and programs to ensure that specialized technical assistance is made available on a continual basis to tribal governments, tribal organizations, and tribal landowners and



producers throughout Indian Country, including in all tribal areas of Alaska and Hawaii. These targeted technical assistance funds shall be given priority to tribal organizations that have an established record of providing technical assistance to tribal audiences and shall demonstrate their knowledge of and ability to successfully complete projects involving conservation programming with tribal audiences. The funding shall not be provided to predominately non-Native organizations with little to no experience and knowledge of working with tribal audiences. Multi-year cooperative agreements should be authorized under such technical assistance programs.

Alternative Funding Arrangements – EQIP and CSP

The 2014 Farm Bill allowed for entering alternative funding arrangements with tribal governments to carry out the intention of the EQIP program and the Conservation Stewardship Program. The Secretary had the authority to enter into such alternative arrangements if he determined that the goals and objectives of the law would be met by such arrangements and that statutory limitations on entering arrangements with individual producers would not be exceeded. This provision needs more attention and improved implementation to ensure that each tribal government is offered the opportunity to be provided alternative arrangements. This is necessary to ensure that the decades of lack of conservation programming on Indian lands is ameliorated and improved.

Tribal Conservation Technical Committee

Finally, the Secretary should be authorized to work with Bureau of Indian Affairs and a technical committee made up of tribal government representatives from each of the BIA regions to formulate a set of initiatives and programs that can be carried out under existing laws as well as a set of programs that may be needed under future conservation program authorities to improve the conditions of tribal lands throughout the United States. This interdepartmental entity shall be put in

place no later than 12 months after the passage of the 2018 Farm Bill and shall issue its report no later than 24 months after passage of the 2018 Farm Bill. The interdepartmental efficiencies and improvements shall be undertaken immediately upon the issuance of the interdepartmental report and annual reports of improvements and actions taken under this provision shall be made to Congress.

IAC's recommended changes in the Conservation Title include:

Conservation Reserve Program: *A pilot program to explore the use of livestock to improve soil health in fields set aside by the Conservation Reserve Program, and allowing for a rental rate over and above the CRP payment to be made to the producer is needed. A growing body of science demonstrates the impact that a lack of animal impact can have on the soil. This program would seek to determine the impacts and benefits, for further developing in subsequent iterations of the Farm Bill or conservation legislation. Preference in the use of this land would be afforded to first to SDR producers, Young and Beginning Producers, and then to customary producers. The more need that is met through the rental agreement, the smaller the reduction in CRP Payment.*

Beginning producers in Conservation Programs: *A beginning producer focus should occur within all conservation programs. All beginning producers should be encouraged and allowed to participate in conservation programs and all conservation programs should be amended to incentivize beginning producers.*

Rollback CSP program to 2013 standards: *The CSP program 2013 standards are more appropriate for use and should be adopted for use now.*

Next Generation Easement: *Conservation programs should incorporate a new “next generation easement.” This “easement” should incorporate tax credits for landowners who are mentoring new and beginning producers and should include a death tax “write-off” for farm transfer to the next generation.*

According to NCAI, the Conservation Title should also:

- **Fund the Environmental Quality Incentives Program (EQIP) at least \$1.6 billion as required by the 2014 Farm Bill.**
- **Fund the Conservation Stewardship Program (CSP) at a minimum of \$1.449 billion.**

Between FY 2010 and FY 2011, the Natural Resources Conservation Service (NRCS) saw an 85 percent increase in tribal participation in its programs, which could be attributed to USDA's outreach to tribal governments. Specifically, NRCS has assisted with the establishment of more than 30 Tribal Conservation Districts by working with the Intertribal Agricultural Council (IAC) and Indian Nations Conservation Alliance (INCA). In 2016, NRCS's Regional Conservation Partnership Program provided more than \$27 million for conservation programs where tribes were the lead, which have led to dozens of partnerships between tribal, state, local, and private entities in mostly rural areas.

American Indians and Alaska Natives hold their natural resources as sacred and depend heavily upon them for economic, cultural, and spiritual sustenance. Historically, federal natural resources funding for tribes has been limited, as tribes are ineligible for dozens of federal natural resource programs. Other funding for tribal natural resource programs under Bureau of Indian Affairs' appropriations consistently experiences the smallest budget increases of all the Department of the Interior bureaus. While working to sustain essential efforts amidst the harsh budget

climate and potential cuts to funding, tribes should have access to new opportunities afforded by USDA's NRCS programs. The 2008 Farm Bill authorizes the Secretary of Agriculture to provide up to 90 percent of the costs associated with planning and implementing conservation practices for tribes. In addition, up to 30 percent of such payments may be provided in a short-term advance for purchasing materials or contracting. Tribes are also included in the five percent set-aside of Environmental Quality Incentives Program (EQIP) funds and the five percent set-aside of Conservation Stewardship Program acres for socially disadvantaged farmers or ranchers. Since the Wildlife Habitat Incentives Program was rolled into EQIP in the 2014 Farm Bill, NCAI requests that the funding levels continue to steadily increase for EQIP, which provides financial and technical support to tribes and others to install or implement structural and management conservation practices on eligible agricultural land.

The Conservation Stewardship Program (CSP) is another vital program in the NRCS. The CSP provides crucial help in reducing soil erosion, enhancing water supplies, improving water quality, increasing wildlife habitat, and reducing the damage caused by floods and other natural disasters. Funding this program at \$1.466 billion is necessary to cover technical and financial assistance needed for a full enrollment of the acres authorized by Congress. The CSP is an important resource for tribes, as tribal participation has been increasing over the years with a 172 percent increase from FY 2010 through FY 2011, with 246 contracts to tribes totaling \$10.4 million.²⁰



TITLE III: TRADE



Whether it is between countries or between tribes, trade is essential to agriculture. Tribes have a long, well-established practice of trading food, agriculture products, and goods of all kinds. Our intertribal trade routes and traditions are preserved in our oral and written histories predating the creation of the United States. When the United States was created, most of the early commercial activity among the colonies and early states was centered around agriculture and food. That predominance of food and agriculture trade continues to today and many agriculture groups are significantly involved in, supportive of, and concerned about all issues related to trade in food and agriculture products.

Most of the jurisdiction of trade matters for purposes of the Farm Bill and food and agriculture products today lies in other committees of Congress, such as the U.S. House Committee on Ways and Means and the U.S. Senate Committee on Finance, but trade issues are also discussed within Title III of the Farm Bill. In the 1960s, 1970s, and 1980s, a series of programs were developed for humanitarian and trade development purposes, and these have been amended in Title III of recent farm bills. The Food for Peace Program is the primary means by which we ship U.S. staple commodities to those most in need in the world, which serves diplomatic, humanitarian, and market development purposes.

Title III also includes a Market Access Program (MAP) to support and establish U.S. branded goods established in foreign markets, and provides various credit authorities for making sales in certain foreign countries. All Title III programs are discretionary accounts funded by yearly appropriations.

Tribes have participated in MAP for many years. The program is administered by the Intertribal Agriculture Council through the American Indian Foods Program and provides export readiness training and assistance for the export presence of American Indian food products and incorporation of those products into international food trade shows. This highly successful program has ensured that tribal food products are made known to emerging food markets around the world.

Tribes have expressed general support for many of the other programs authorized in the Trade Title, including: the Food for Peace Act & Food for Peace Program; the McGovern-Dole International Food for Education and Child Nutrition Program;

the Local and Regional Procurement Program, the Export Credit Guarantee Program; the Foreign Market Development Program; the Emerging Markets Program; the Technical Assistance for Specialty Crops Program; the Agricultural Trade Act of 1978; the Foreign Market Cooperator Program; and other Agricultural Trade Laws important for the creation and sustaining of markets for American food products. Tribes engaged in the Market Access Program with the Intertribal Agriculture Council see

the benefit to their food systems and agriculture production at food trade shows around the world.

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Whether it is between countries or between tribes, trade is essential to agriculture. Tribes have a long, well-established practice of trading food, agriculture products, and goods of all kinds. Our intertribal trade routes and traditions are preserved in our oral and written histories predating the creation of the United States.

WHY SHOULD INDIAN COUNTRY CARE?

New food products developed by tribes can have tremendous early success by engaging in foreign markets first, particularly those in the Pacific Rim countries and European Union countries. Demand

for tribal agricultural and food products is high in many foreign markets and is likely to continue improving over time as the global desire for unique food products continues. Many tribal food businesses have had or are currently experiencing much success by engaging in trade. However, the hurdles necessary to engage in such markets are very complex. IAC's work in promoting trade by tribes in foreign markets ranges from coordinating export readiness trainings for those wishing to engage in foreign markets to coordinating tribal food business engagement in foreign trade and food shows.

In 2013, NCAI expressed the following recommendations regarding the Trade Title:

The Trade Title provides support for U.S. agricultural export programs and international food assistance programs. Major programs include: The Market Access Program (MAP) and the primary U.S. food aid program, the P.L. 480 program, and other programs. Additionally, Title III addresses program changes related to World Trade Organization (WTO) obligations.

Tribal Perspective: Under the Market Access Program (MAP), Commodity Credit Corporation (CCC) funds are used to support the cost of overseas marketing and promotional activities for non-profits, state, tribal and regional organizations, cooperatives, and small businesses on a cost-share basis. The Food, Conservation, and Energy Act of 2008 set mandatory funding for the MAP at \$200 million annually through Fiscal Year 2012. For FY 2014, it is imperative that the MAP be reauthorized and funding remain level or exceed prior funding to support the Administration's export goals, as well as the export of United States agricultural products. Equally important to Indian Country is continuing the financial support provided by the MAP program to tribal agriculture via the

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New food products developed by tribes can have tremendous early success by engaging in foreign markets first, particularly those in the Pacific Rim countries and European Union countries.

Intertribal Agriculture Council (a participant in the MAP program) to support the increasingly successful Native export activities and ensure continued successes in exporting – and the related growth in jobs for American Indian and Alaska Native agriculture.

Marketing and Promotion; Market Access Program (Foreign Ag Service): Fix for the Market Access Program in Foreign Ag Service to allow IAC to focus on solely American Indian produced food products. The present

MAP agreement between IAC and FAS is authorized through: (Conference Report, Sec. 122. Marketing Assistance Program [MAP], c. Eligible Trade Organizations, page 1014) “The Senate Bill defines eligible trade organizations to include U.S. or regional agricultural trade organizations that promote but do not profit directly from specific sales of agricultural commodities; a private organization that contributes significantly to U.S. export market development; or a tribal or inter-tribal organization that promotes the export and sale of one or more Native American products.” The intent of this language needs to be strengthened by stating in law that “a tribal or intertribal organization that promotes the export and sale of one or more trademark certified Native American products.”²¹

EXAMPLES OF OPPORTUNITIES IN THE TRADE TITLE

Study on Tribal Representation on USDA Advisory Bodies

The Secretary should be required to study all Trade Title programs to ensure that tribal representatives are included on all advisory bodies related to agricultural trade issues and concerns.



Tribal Representatives on U.S. Trade Missions

Tribal governments and tribal food businesses should be included on all trade missions undertaken by the United States to foreign governments to further assist tribal food products' access to such markets.

Expand MAP

Expand MAP by substantially increasing the funding available to the Intertribal Agriculture Council to coordinate and administer the program for tribal audiences so that more tribal food and agriculture businesses can benefit from the program. The impact of such engagement will further solidify local food economies and food businesses and stabilize tribal economies.

Interdepartmental Coordination to Support Tribal Trade

A special interdepartmental coordination group should be seated to include USDA, Department of Commerce, Department of State, and other

applicable agencies to ensure that tribal food production is properly supported and encouraged on tribal lands and is thereafter made a part of the U.S. trade missions and efforts to promote agricultural trade. The responsibility for coordination must extend beyond USDA Foreign Agriculture Service and other USDA programs to other applicable departments and agencies of the federal government.

Supporting Unique Tribal Foods and Fighting Native Food Fraud

Non-tribal organizations should not be allowed to participate in MAP who focus solely on American Indian food readiness. Food fraud is on the rise throughout the world and unscrupulous food business entities are already trying to mimic or replicate unique tribal food products. Those businesses should not be allowed to participate in programs that allow them to access markets with products that perpetrate frauds on tribal food producers or food businesses.

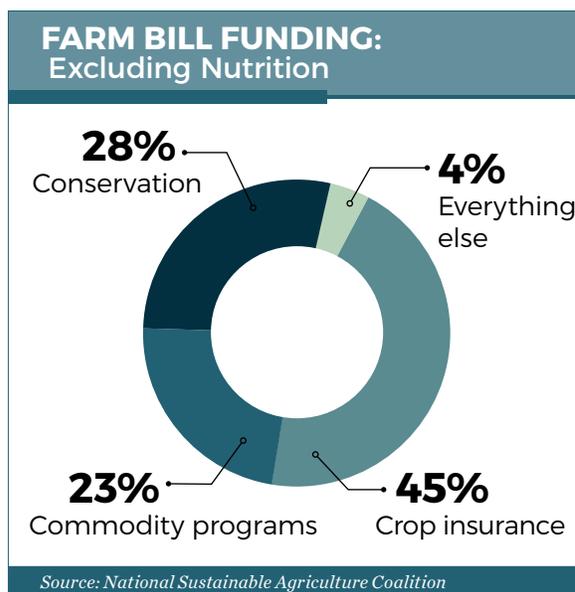
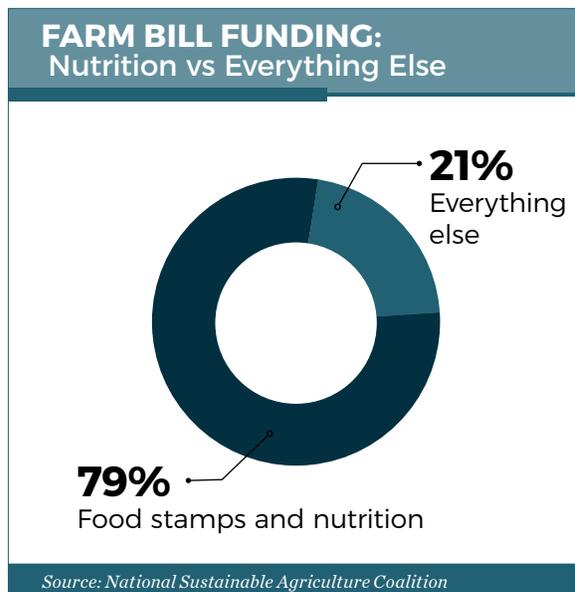
TITLE IV: NUTRITION



The Supplemental Nutrition Assistance Program (SNAP), originally called Food Stamps, was created in the early 1960s and made permanent by Congress in 1964 as part of the Johnson Administration’s War on Hunger and was included in the Farm Bill in 1973. SNAP and other feeding and nutrition programs are, by far, the largest component of the current Farm Bill, and make up almost 80 percent of all mandatory spending. Eligibility for SNAP benefits are generally based on a formula of income and asset qualification tests for either vouchers, cash assistance, or in some cases, packaged food product delivery. Participation in the programs changes annually. In FY 2014, approximately 46.5 million Americans were receiving SNAP benefits, averaging \$125 per person per month.

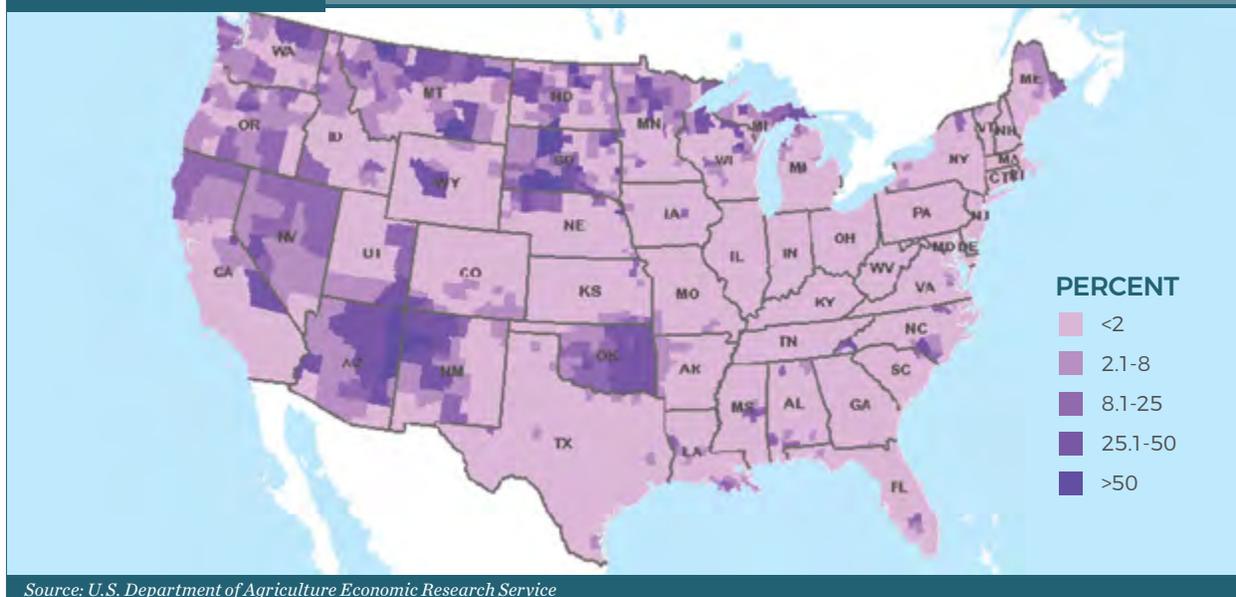
The 2014 Farm Bill reauthorized SNAP, the nation’s largest food and nutrition assistance program, maintaining the program’s basic eligibility guidelines while restricting access to an income deduction that increased benefits for some households. Additional SNAP funding for enhanced employment and training activities, increased healthy food options, and expanded anti-fraud efforts was also provided in the bill.

In addition to SNAP there are several other feeding programs providing key nutrition and food access to citizens across the country. These programs include: the Restaurant Meals Program; Nutrition Education and Obesity Prevention Grant Program; the Food Distribution Program on Indian Reservations (FDPIR); the Emergency Food Assistance Program; the Commodity Supplemental Food Program; the Senior Farmers Market Nutrition Program; the Fresh Fruit and Vegetable Program; the Food Insecurity Nutrition Incentive Program; the Healthy Food Financing Initiative; and the Agriculture Service Learning Program. Within the Commodity Supplemental Food Program portfolio is the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and other programs which rely on commodity food purchases and deliveries.



The 2014 Farm Bill authorized USDA to support **Healthy Food Financing Initiative (HFFI)** projects to provide healthy food retailers with grants and loans to “overcome the higher costs and initial barriers to entry in underserved areas.” Priority is given to an HFFI project that “supports regional food systems and locally grown foods, to the maximum extent practicable.” HFFI was also authorized to receive up to \$125 million in appropriated funds; whether HFFI receives additional funding or not would be a function of future annual agriculture appropriations bills. The former Farm Bill also prioritized healthy food access projects that involve

SNAP NATIVE AMERICAN PARTICIPATION, 2010



The Food Insecurity and Nutrition Incentive grant program (FINI) was authorized and funded at \$100 million over five years with an additional \$5 million per year through 2018 and was designed to provide federal matching funds to entities providing food in communities that would encourage SNAP recipients to purchase fruits and vegetables. SNAP's eligibility requirements in the 2014 Farm Bill were left unchanged with states allowed to coordinate (under federal guidelines) SNAP eligibility requirements with other safety net programs.

The 2014 Farm Bill also creates a Multiagency Task Force in Section 4205 whose purpose is to provide coordination and direction for commodity programs. The task force is to be led by FNS, and includes Agriculture Marketing Service, Farm Service Agency, and Food Safety Inspection Service. The task force is required to review and make recommendations regarding procurement specifications of food commodities; the efficient and effective distribution of food commodities; and the degree to which the quantity, quality, and specifications of procured food commodities align with the needs of producers and preferences of recipient agencies.

INDIAN COUNTRY SPECIFIC PROVISIONS

Several key provisions in the 2014 Farm Bill applied specifically to tribal citizens participating in one or more of the federal feeding programs. Tribal citizens appear throughout the participation portfolios of each of the discrete feeding programs, because tribal citizens live throughout the country, not just on tribal lands. It is important to examine: (1) how tribal citizens are affected within each of the feeding programs; (2) how tribal-specific programs or Farm Bill provisions are carried out and what remains to be done; and (3) the effectiveness of the Nutrition Title in serving the needs of tribal citizens located in both urban environments, where approximately 70 percent of all Native people reside, and within rural, reservation, remote, and isolated communities which are normally within the land base of Indian Country.

Tribal Administration of Feeding Programs: Section 4004

Tribal governments have, over many years, passed resolutions supporting the migration of federal feeding programs to tribal management and administration. The 2014 Farm Bill called on the Secretary of Agriculture, after consultation with tribes, to release a report on the potential for tribes

to administer federal food assistance programs that benefit their citizens. A majority of these programs are currently administered by the states. The study was to be finished no later than 18 months after final enactment of the Farm Bill and would include: a list of programs, services, functions and activities which can be administered by tribes and tribal organizations; if a statutory or regulatory change was necessary to allow for tribal administration; and issues raised during tribal consultation. The Secretary was required to make \$1 million available for funding the report.

The study and report was completed and published July 2016.²² Generally speaking, the findings of the study were as follows:

- Nearly all tribes participating and more than 90 percent of all respondents expressed interest in administering federal nutrition assistance programs as an expression of sovereignty and to provide direct service to tribal members in need of assistance and felt the ability to provide flexibility in the management of nutritional quality of the food provided and culturally appropriate programming and services were critical.
- There was interest in managing programs that were larger and more complex by large and medium tribes. Some tribes did not wish to administer all school-related programs while most tribes expressed interest in either some component of school-related programs in addition to programs focused on after-school, fresh fruits and vegetables, and senior farmers' market programs.
- Almost three-quarters of the tribes who responded have experience in program administration of key components such as program outreach, determining participant eligibility, producing reports and delivering services to program participants. Tribes also

reported key experience in developing and using governance policies to guide implementation, experience in financial governance polices, program compliance, integrity and reporting. Most tribes also have key experience in financial, program operation and reporting issues in both electronic and web-based reporting systems.

Key challenges identified in the study include:

- **Lack of financial resources.** Tribes identified the need for specific administrative contract costs to be identified and transferred when the program administration functions were transferred to tribal governments. Likely startup and administration costs will need to be included, but this issue is no different than state costs for administering the same programs.
- **Merit system personnel regulations.** While this is not an issue for most tribes who have long-established merit system personnel regulations that guide their own internal hiring systems, the improvement of such systems will be important for some tribes when taking over the administration of these programs. Current SNAP law requires that entities administering SNAP must ensure that state agency staff conducting certification interviews are employed in accordance with standards determined by the Office of Personnel Management (merit system). The 2018 Farm Bill should address this requirement specifically to ensure this issue does not create an impossibility for tribal management.
- **Infrastructure needs.** Tribes indicated that they had insufficient technological and physical infrastructure to administer additional federal nutrition programs.
- **Need for technical assistance and competitive EBT pricing as well as other program administration needs.** Tribes indicated that they would need specific technical assistance and

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Tribes identified the need for specific administrative contract costs to be identified and transferred when the program administration functions were transferred to tribal governments.

competitive pricing for administration-related products to ensure proper program management.

- **638 authority.** In addition, the report noted that at this point USDA-FNS does not have the requisite 638 authority that explicitly provides Congressional support for executing contracts between federal agencies and tribes to coordinate the management of specific federal programs. Tribes suggested that legislative language should be inserted into the Indian Self-Determination and Education Assistance Act, Pub. L. No. 93-638, as amended, to include FNS nutrition assistance programs. (Programs administered under Pub. L. 93-638 are often referred to as “638 programs.”) Including nutrition assistance programs in the Indian Self Determination Act would enable tribes to manage federal programs and funding resources in accordance to the needs within their communities. The Act has established standards permitting tribal management of federal programs, using federal funds, in accordance with tribal laws, regulations, and procedures. For example, Subpart F contains provisions relating to financial management, procurement management, and property management. Additionally, 638 programs have less prescriptive regulatory requirements. These requirements focus on minimum standards of performance that must be met in each of these management areas.
- **Development of Tribal Regional Offices.** Tribes suggested that FNS consider the development of tribal regional offices analogous to the existing FNS regional offices. Most federally recognized tribes and villages are concentrated in only a few FNS regions. Tribes suggested that tribal administration of nutrition assistance programs could overtax existing regional offices. Adding tribal regional offices could provide better coverage of the Western and rural areas where tribes are concentrated to help cover this gap.

Traditional Foods

- Tribal governments and advocates have a long history of requesting that the USDA purchase and incorporate more traditional foods into the various feeding programs utilized by tribal

citizens. The 2014 Farm Bill provided the latest version of those policy desires. While USDA has been authorized by Congress over a period of several succeeding Farm Bills to purchase traditional foods, the incidence of such purchases has been sparse and inconsistent. The 2014 Farm Bill authorized a new demonstration project, with technical assistance and tribal consultation, to include traditional and locally grown foods from Native farmers, ranchers, and producers in FDPIR food packages.

- This language is not new, but it embodies the 2014 Farm Bill Congressional authorization to continue to take measures to incorporate traditional foods into the feeding programs. This provision specifically focused on the FDPIR feeding program which is the only program that exclusively serves Native people.
- What is needed now is enshrining the authority for USDA FNS to purchase traditional foods as part of the basic food package and not as “bonus buys” or “special appropriations” buys. More discussion is provided below concerning this important step.
- One or more tribal organizations should be eligible for this demonstration project, which would allow for the purchase of nutritious and traditional foods and, when practicable, foods produced locally by Native producers for distribution to recipients of FDPIR.
- The Secretary was required to perform consultation and provide outreach to Native farmers, ranchers, and producers on training and capacity to participate in the project.
- \$2 million was authorized to be appropriated for each fiscal year from 2014 to 2018 for the demonstration project.

Managers’ Report Statement Regarding Section 4004

The Managers’ Report contained the following language regarding Section 4004: “The Managers recognize that federal regulations and certification requirements can often be burdensome for small producers, especially those on reservations. Often located in remote locations, producers on



reservations may not be close to the Agricultural Marketing Service (AMS) inspectors necessary for certification needed to provide fruits, vegetables, and other agricultural commodities to federal nutrition programs. Costs, including payments for inspector travel time, make certification unachievable for many producers on reservations. As a result, federal nutrition program recipients lose access to locally produced, fresh commodities, and producers lose access to a local market that would assist economic development on reservations. *To address this issue, the Managers encourage the Secretary to work with Tribal Organizations to enable the use of accredited third party certifiers; existing infrastructure on reservations, such as extension agents; or properly trained and certified tribal employees or officers to certify producers on reservations.*”

Little if anything has been done to implement either the language of the law or the Manager’s report.

Traditional Foods: Section 4033

Section 4033 of the 2014 Farm Bill allows for the service of donated traditional foods in residential child care facilities, child nutrition programs,

hospitals, clinics, long-term care facilities, and senior meal programs.

Traditional foods were defined in the provision to include: wild game meat; fish; seafood; marine mammals; plants; and berries.

The section also included a waiver of liability protecting tribes or tribal organizations against any civil actions arising from harm caused by the donation of traditional food.

The section also required USDA and FDA to allow service of such foods “if certain food safety measures are met, which will include meeting measures for food safety in the preparation and processing, labeling and storage of these foods.”

Note: The inclusion of this language concerning food safety requirements, while understandable, created an entirely new set of uncertainties as the application of food safety requirements for traditional foods is changing (e.g., FDA FSMA food safety requirements regarding covered produce) or unknown (e.g., FDA FSMA and USDA FSIS

requirements as to certain types of traditional meat/protein foods).

Commodity Supplemental Food Program: Section 4102

The Commodity Supplemental Food Program (CSFP) was converted to “elderly only” and currently only two tribal organizations operate CSFP: Red Lake and Oglala Sioux.

Senior Farmers Market Nutrition Program

While the Senior Farmers Market Nutrition Program was retained during Farm Bill negotiations, the program was threatened with being merged into other programs and its funding cut in half.

Community Food Projects: Section 4026

Many tribes participate in community-supported agriculture or tribal-supported agriculture activities as a means of improving their communities’ access to healthier foods. This section allowed “tribal organizations” to be eligible for Community Food Project funding.

WHY SHOULD INDIAN COUNTRY CARE?

Tribal citizens have high usage rates of all federal feeding and nutrition programs. In some communities, 25 percent of all community citizens are taking part in the feeding programs. In other communities, the numbers can climb to 60-80 percent of all citizenry. These participation rates hinge on the relative unemployment rates of individuals in the communities, the lack of meaningful employment opportunities, poor transportation options to food sources or food retail, the age and population characteristics of the individuals in the communities, and the prevalence of chronic health problems, among other issues. Because the

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A consistent, comprehensive, and tribal-led approach that is tailored to the needs of Indian Country is paramount.

rate of obesity, diabetes, chronic heart diseases, cancer, and rated health problems is so high in so many communities in Indian Country, participation rates in the feeding programs when coupled with the prevalence of persistent poverty create a fragile system of food access across Indian Country. A consistent, comprehensive, and tribal-led approach that is tailored to the needs of Indian Country is paramount.

Linking or “coupling” the feeding programs to the food production that occurs on tribal lands will do two things simultaneously. First, it will ensure that over time (conceivably less than two decades) the use of feeding programs in Indian Country will precipitously decline and in some regions, could disappear altogether. Second, it will ensure that food produced on Indian lands is focused on three simultaneous goals: (1) retaining enough food products that Indian people will be fed by food produced locally or regionally; (2) ensuring that fresher foods are available to tribal citizens needing access to feeding programs; and (3) ensuring the stabilization of food produced on tribal lands occurs because it is being used to feed people who lack food access and, at the same time, offering a consistent, albeit federal, market and anchor contract providing tribal producers the economic stability to confidently access markets off tribal lands.

Considerable attention has been paid to the Nutrition Title by tribal governments, and in some years, Congress responds by passing language that authorizes small interventions to feeding programs that impact tribal participants. Most recently in the 2014 Farm Bill, several key provisions were included that sought to improve the delivery of several feeding programs to tribal citizens. Those provisions were discussed immediately above. However, key and vexing issues remain that are critical to the future of the feeding programs and how those programs are delivered to or serve Indian Country citizens.

EXAMPLES OF OPPORTUNITY IN THE NUTRITION TITLE

In the 2014 Farm Bill, a Multiagency Task Force led by FNS, and includes AMS, FSA, and FSIS, was created to provide coordination and direction for commodity programs. The Task Force is responsible for making recommendations regarding: the specifications used for procurement of food commodities; the efficient and effective distribution of food commodities; and the quantity, quality, and specifications of procured food commodities to align with the needs of producers and preferences of recipient agencies. While the Task Force has already submitted a report to Congress, it should be reconstituted to engage in consultation with tribal governments to hear from tribal producers and organizations on these important issues. With so many Native communities receiving food from commodity programs, their input into the programs is essential. Scientific studies have shown that traditional foods and foods that are healthier, more nutritious and based on traditional diets of Native people will help alleviate the debilitating effects of diabetes, heart disease, stroke, cancer, and other chronic medical conditions. The Multiagency Task Force cannot just review issues relevant to efficiency, distribution, and the needs of producers and preferences of recipient agencies. It also must incorporate the needs of the recipients of the actual commodities.

There is currently a study underway that examines a comparison of distribution costs, efficiency, and effectiveness of food commodity distribution at the national versus the local and regional level with an eye toward including Native producers and traditional foods in the distribution of

commodities for feeding programs. The study seeks to address the question: Are the needs of Native producers being considered? If the federal government only hears from those who grow, produce, or process commodities that do not come from Native producers or from traditional food sources and never hears from the actual recipients of those commodities, then they are not adequately addressing the ultimate impact on the recipient. The needs of the recipients of the commodity foods should drive these studies and decisions. If

the commodities received are not tailored to the dietary and medical needs of the individuals who are receiving them, then the food production, the commodity purchasing, the commodity distribution, and the purpose of feeding programs that rely on commodity food purchases are entirely disconnected. By coupling all these various segments into a system that achieves more goals, commodity food

distribution systems can go beyond their original purposes of either alleviating hunger or distributing surplus commodities; they can enter a new and more modern age, and become more relevant to health and healthy food access.

Many in Indian Country support a system that connects Native producers and tribally owned food businesses with important anchor government contracts of food purchases that can stabilize our growing food systems and food companies while at the same time feed our people (who right now depend so heavily on these feeding programs). Healthier, more locally and regionally produced, and more traditional foods will in turn improve our health outcomes.

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If the commodities received are not tailored to the dietary and medical needs of the individuals who are receiving them, then the food production, the commodity purchasing, the commodity distribution, and the purpose of feeding programs that rely on commodity food purchases are entirely disconnected.

Tribal Administration of SNAP and Other Federal Feeding Programs

To build upon the results and tribal suggestions steaming from FNS's feasibility study on tribal administration of federal feeding programs, the next Farm Bill must take the next steps and provide tribes with the authority to do so by expanding 638 authority to USDA nutrition assistance programs.

NCAI has supported the following changes in the Nutrition Title of the Farm Bill:

The Food Distribution Program on Indian Reservations is currently serving approximately 276 tribes that do not have easy access to Supplemental Nutrition Assistance Program (SNAP) offices or authorized food stores. Through 100 Indian Tribal Organizations (ITOs) and five state agencies FDPIR provides USDA foods to low-income households and the elderly living on Indian reservations and to American Indian and Alaska Native households residing in eligible areas near reservations or in Oklahoma. The ITOs also provide employment to local and tribal personnel who administer the program. As the temporary funding increases for SNAP under the American Recovery and Reinvestment expired in October 2013, the demand on FDPIR is increasing, leaving some programs with food shortages. Since FY 2013, FDPIR participation has risen over 17 percent,

and between FY 2015 and FY 2017, the monthly participants have risen from 88,000 to 100,000. Additional funding is needed to address the new demands on the programs, rising food cost – especially the increasing price of protein, and to improve program operations. Further, Congress authorized the USDA to purchase traditional and locally grown foods, but it has been difficult for tribes to create a sustainable supply of traditional foods due to the lack of infrastructure and local capacity.²³

NCAI, in a 2013 report identified the following recommendations for future Farm Bill Nutrition Titles. While some improvements in tribal-specific provisions noted below were made, there is still room for improvement:

The Nutrition Title provides nutrition assistance for households and individuals through programs such as the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps), the Food Distribution Program on Indian Reservations (FDPIR), and The Emergency Food Assistance Program (TEFAP), among other types of supplemental nutrition assistance. It also provides support for programs to bring fresh fruits and vegetables to schools and other types of support for child nutrition programs.



Tribal Perspective:

Many American Indian and Alaska Native families rely heavily on federal food assistance programs. Due to high unemployment rates and rural economies, most tribes have limited access to grocery stores, farmer's markets, and community gardens. Historically, these programs have been readily accessible to state and local governments, but high participation rates indicate that tribes should have a larger role in the local procurement and distribution of foods. By encouraging the purchase of more Native-grown product into the feeding programs serving individuals on reservations, the dual purpose of feeding while also creating market opportunities for Indian producers could occur and if allowed to over time, encourage the development of local food and agriculture economies that will alleviate the numbers of individuals on feeding programs while ensuring that local, regional food economies in Indian Country flourish.

1. Expand parity and access to federal food programs. Provide tribes greater access to and control of federal food programs. Of the 15 federal food assistance programs, currently being funded through the Food and Nutrition Services (FNS), tribes are only eligible to administer the Commodity Supplemental Food Program (CSFP), the Food Distribution Program on Indian Reservations (FDPIR), and the Women, Infants, and Child (WIC) program. Since tribes have a duty to protect the welfare of their citizens, it should only follow that tribal governments should identify

and possess greater control of the programs that will meet their needs.

2. Conduct a feasibility study to identify which federal food tribes have the capacity to administer on their own.

Recommended Provisions

INSERT: "(x) In General. – Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended by inserting a new subsection (b) and reordering:

"(b) FEASIBILITY STUDY FOR INDIAN TRIBES. – The Secretary shall conduct a study to determine the feasibility of a tribal demonstration project for tribes to administer all federal food assistance programs, services, functions, and activities (or portions thereof) of the agency.

"(c) CONSIDERATIONS. – In conducting the study, the Secretary shall consider –

- "(1) the probable effects on specific programs and program beneficiaries of such a demonstration project;*
- "(2) statutory, regulatory, or other impediments to implementation of such a demonstration project;*
- "(3) strategies for implementing such a demonstration project;*
- "(4) probable costs or savings associated with such a demonstration project;*
- "(5) methods to assure quality and accountability in such a demonstration project; and*



“(6) such other issues that may be determined by the Secretary or developed through consultation with pursuant to subsection (d).

“(d) REPORT. – Not later than 18 months after the date of the enactment of this section, the Secretary shall submit a report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. The report shall contain –

- “(1) the results of the study under this section;
- “(2) a list of programs, services, functions, and activities (or portions thereof) within each agency with respect to which it would be feasible to include in a tribal demonstration project;
- “(3) a list of programs, services, functions, and activities (or portions thereof) included in the list provided pursuant to paragraph (2) that could be included in a tribal demonstration project without amending statute, or waiving regulations that the Secretary may not waive; and
- “(4) a list of legislative actions required to include those programs, services, function, and activities (or portions thereof) included in the list provided pursuant to paragraph (2) but not included in the list provided pursuant to paragraph (3) in a tribal demonstration project.

“(e) CONSULTATION WITH INDIAN TRIBES. – The Secretary shall consult with Indian tribes to determine a protocol for consultation under subsection (b) prior to consultation under such subsection with the other entities described in such subsection. The protocol shall require, at a minimum, that –

- “(1) the government-to-government relationship with Indian tribes forms the basis for the consultation process;
- “(2) the Indian tribes and the Secretary jointly conduct the consultations required by this section; and
- “(3) the consultation process allows for separate and direct recommendations from the Indian tribes and other entities described in subsection (b).

“(f) AUTHORIZATION OF APPROPRIATIONS. – There are to be appropriated such sums as may be necessary to carry out this section. Such sums shall remain available until expended.”

3. Promote and assist the growth and distribution of traditional foods within tribal communities.

Before processed foods entered the diets of American Indians and Alaska Natives, tribal communities lived with lower rates of disease and practiced healthier, physically challenging lifestyles through traditional hunting, fishing, gathering, and agriculture. Tribal governments consistently work to return communities to these traditional practices and foods that encourage healthy living and cultural sustainability. However, the process to create a sustainable supply of traditional foods has been difficult for tribes due to the lack of infrastructure, administrative hurdles, and insufficient technical assistance to build tribal capacity. To build capacity and restore traditional practices tribal governments recommend that Congress:

- Institute a traditional food market within FDPIR.
- Provide technical assistance to increase capacity of traditional and local farmers to bring produce traditional foods for to tribal school systems and assist them in establishing new farmers’ markets.
- Assist tribes with in securing on-farm processing equipment and establishing aggregation, distribution, and processing facilities.
- Allow tribes administering FDPIR to use 5% of program funding to purchase or grow local and traditional foods for their food package.

Recommended Provisions

INSERT:

“(x) In General. – Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended by inserting new subsection (b)(7):

“(A) LOCAL PURCHASE. – A tribe that is authorized to administer the distribution under subparagraph (B), shall have the option to use 5% of its program funding to promote local purchase of traditional and locally-grown food to be used in its food package by –

- (1) purchasing traditional and locally-grown foods from local Native American farmers, ranchers, and producers; or
- (2) creating and maintaining a community garden from which traditional and locally-grown foods are harvested from.”

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4. Congress should authorize the regional procurement and distribution of traditional and locally grown food for recipients of the Food Distribution Program on Indian Reservations (FDPIR) program. The FDPIR program is a low-income food distribution program administered by the U.S. Department of Agriculture (USDA) Food and Nutrition Services. Currently, the USDA purchases and ships FDPIR foods nationwide to tribes or Indian tribal organizations for eligible recipients. This provision would authorize the USDA to purchase traditional and locally-grown food on a regional basis and to make such food available on a regional basis for FDPIR recipients. This provision promotes tribal culture, regional economic development, and encourages the use of traditional, regional and locally grown food.

Recommended Provisions

Section 4003. Food Distribution Program on Indian Reservations.

Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended by inserting new subsection (b)(7) - REGIONAL PROCUREMENT AND DISTRIBUTION. The Secretary may purchase on a regional basis traditional or locally-grown food and make such food available on a regional basis for recipients of food distributed under subparagraph (b); provided, there are economic, cultural or health benefits to the tribe or Indian tribal organization harvesting the traditional or locally-grown food for recipients of food distributed under subparagraph (b); provided further, that the Secretary shall enter into cooperative agreements with tribes or Indian tribal organizations to carry out this subsection. In consultation with tribes and Indian tribal organizations, the Federal Acquisition Regulatory Council shall promulgate regulations and procedures to carry out this subsection in accordance with the Buy Indian Act, 25 U.S.C. 47, as amended, to encourage the purchase of traditional, regional and locally-grown food produced, harvested, and marketed by tribes and Indian tribal organizations, and in accordance with the Office of Federal Procurement Policy Act, 41 U.S.C. 401 et seq.

5. *Maintain current funding levels for SNAP.*

Twenty-four percent of American Indians and Alaska Natives are currently served by the SNAP program, compared to only 14 percent of the entire US population. Since most SNAP recipients are children and seniors, any cuts to the SNAP program will deeply affect American Indian and Alaska Native families.

6. *Authorize a Tribal Preference in Food Procurement. Congress should authorize USDA to include a tribal preference in their food procurement authorities. Tribal food and agriculture businesses could continue to scale up to meet this new opportunity or partner inter-tribally or community-wide to play a bigger role in food procurement and distribution for their communities. Increases in this market will provide greater job opportunities and expanded economies in tribal communities.*²⁴

Food Distribution Program on Indian Reservations

Since 2015, several tribal elected officials have engaged in ongoing tribal consultation with USDA FNS over a significant number of improvements needed to the FDPIR program. These officials have made some headway, but significant legislative changes still need to occur within the FDPIR program. Proposed changes include:

- The matching funds requirement of each of the FDPIR program sites should be eliminated, no FDPIR program site should be required to provide matching funds to participate. If funds are required, there should be no more than 5 percent matching funds required of any program site.
- The carryover prohibitions that apply to tribal feeding sites is inequitable. State feeding programs can engage in carryover of unspent funds from year to year. This unequal treatment is problematic to tribal feeding programs whose funding needs, particularly for food distribution infrastructure (e.g., warehouses), could be met by allowing carryover funding.
- No FDPIR program site should be allowed to engage in the regulatory-approved practice of

“tailgating.” It is a demeaning practice to program participants. USDA FNS should engage in tribal consultation concerning reasonable alternatives to this practice and should amend its regulations as soon as a reasonable alternative to delivery is identified.

- A contingency plan should be the subject of tribal consultation and should be reduced to writing so that all tribal program sites are aware of what will happen should any lapses in funding, disasters, government closures, or related incidents cause the stoppage of delivery of food to program sites.
- The USDA FNS should be required to hire at least one national tribal liaison located in its Washington, D.C., offices and one regional tribal liaison located in each regional FNS office. These individuals should be Native or have high levels of experience with tribal communities.
- A significant increase in nutrition education funding — at least \$5 million per year — should occur. An alternative to competitive funding should be sought so that each tribal program receives support for nutrition education program materials and a coordinated approach to nutrition education occurs.
- All FDPIR traditional food purchases (bison, wild rice, salmon, blue corn, and other products) shall be a regular part of the food package purchases and not require supplemental or special appropriations.
- A budget for warehouse and other infrastructure needs for FDPIR program sites shall be compiled after tribal consultation and shall be included in its entirety in each federal budget cycle and request until fully funded.
- All FDPIR purchasing and distribution shall occur on a regional basis and shall include as much locally and regionally tribal-produced food as reasonably possible.
- USDA must remove the “Urban Place” definition and limitation to a population of 10,000 people for FDPIR to allow tribes and the USDA to work collaboratively to serve even more tribal citizens who need nutritious food, regardless of where they live.



TITLE V: CREDIT



Due to the capital-intensive nature of farming and ranching, the Credit Title has long been an important part of the Farm Bill. Farming and ranching is a high-risk enterprise. Exposure to weather, climate and disaster events is always a possibility; and markets for food products and agriculture commodities can be impacted by local, national, and global events and seemingly unrelated policy decisions. Investments in agriculture production must always follow a “long-term” investment scenario. Good times for agriculture can very quickly be followed by bad times. Having access to a lender or an entity willing to understand these financial realities is critical. Over many decades, the federal government has maintained a continuing presence in agricultural lending. However, that hasn’t always gone so well. In the 1980s, a period known as “the farm financial crisis” significantly rattled credit markets and fundamentally changed the USDA lending portfolio. The federal government’s lending practices have been tested in the courts, and Indian Country hasn’t been immune from these situations. Prior to the 1990s and for many decades, USDA offered critical lending through an agency known as the Farmers Home Administration (FmHA). However, after the turbulent 1980s, Congress took action to separate critical functions of FmHA: farm lending was retained in the Farm Service Agency (FSA) and rural home and business lending was held within the Rural Development Agency of USDA.

Many observers believe that due to the inherently risky nature and cyclical business cycles of farming and ranching that the government must always have a presence in the agricultural lending arena. The government’s presence in agricultural lending is normally evident through either the Farm Service Agency (FSA) of USDA or the Farm Credit System. Obviously private

banks and other lending entities can also provide much-needed credit to farmers and ranchers.²⁵

The Farm Credit System (FCS) was created by Congress in 1916 and celebrated its 100th year in the business of agricultural lending in 2016. The FCS and FSA are critical lending partners to many tribes and tribal producers throughout the country. However, they are not the entire picture. Many smaller producers who are not yet ready for FSA or FCS lending relationships utilize the services of smaller retail banking entities at the local level, community development financial institutions (or CDFIs), credit unions, or other means of acquiring needed capital.

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Many observers believe that due to the inherently risky nature and cyclical business cycles of farming and ranching that the government must always have a presence in the agricultural lending arena.

FSA offers direct loans to farmers, ranchers, and tribal governments and guarantees loans with preferred lenders and FCS institutions. While in the past the loan portfolio of the federal government (FSA) was approaching 80 percent direct loans and 20 percent guaranteed loans, that distribution has shifted

over time so that the lending portfolio of the federal government is now predominately offering guaranteed loans — 80 percent guaranteed loans and 20 percent direct loans. Loan programs at FSA are funded through annual appropriations at set lending limit levels, and loan servicing occurs through the federal government agency itself.

The *Keepseagle v. Vilsack* case, a lawsuit about civil rights discrimination in lending and loan servicing lawsuit brought by a group of Native plaintiffs that was later certified as a national class action, lingered in the federal court system since the 1990s. The case was finally settled in 2010 and a claims review process was undertaken. At this writing, the case is still in the courts, but hopefully in the final stages of ruling on all appeals and approving the modified settlement agreement. Regardless of the outcome of that appeals process, the USDA Farm Service

Agency has continued to extend or try to extend credit in Indian Country to support the growth and stability of Native-owned farms and ranches.

The 2014 Farm Bill continued the lending functions for agricultural operations with FSA and implemented improvements in the Down Payment Loan Program which provides capital to new farmers seeking to purchase property by increasing the total value of farmland to be purchased from \$500,000 to \$667,000.

A previously created tribal-specific lending program — the **Highly Fractionated Indian Land Loan Program** — was reauthorized in Section 5402 of the 2014 Farm Bill and amended to enable it to run more effectively. Congress allowed the authorized funds under that program to be delivered in loans through an approved intermediary relending organization and authorized the Secretary to make direct loans. The program expands eligibility of the program to individuals. These new provisions were sought after FSA conducted tribal consultation in efforts to find ways to improve the ability of the program to reach its original purposes. The 2008 Farm Bill authorized this program at \$10 million annually, but those funds were never utilized due to the structure of the program. The 2014 Farm Bill sought and achieved changes to the program delivery which have since gone into effect with the passage of new regulations and the selection of the first annual relending entity. The intent of the program is to be a useful tool to consolidate lands for agricultural purposes within Indian Country.

The 2014 Farm Bill authorized a **Microloan Program**, under which a single borrower may borrow up to \$50,000. In addition, the provision authorizes a cooperative lending pilot project for

the Secretary to identify community development financial institutions to make microloans and provide business, financial, or credit management services to microloan borrowers.

Youth Loans were also the subject of 2014 Farm Bill provisions. While USDA has long had authority to provide youth loans to encourage young people to enter farming, ranching, and agricultural pursuits, the program was plagued with problems related specifically to the burden on young people when situations outside their control (e.g., family dissolution, divorce, death of a parent or mentor) caused them to fall behind in their repayment or default on the loan altogether. The Credit Title in the 2014 Farm Bill contained a youth loan provision addressing the problem, allowing the Secretary to forgive the debt.

In addition, and regardless of the reason for the default, the provision stated that the youth borrower shall not become ineligible for federal education loans due to the default. This amendment is very important to all youth loan borrowers, and was an issue that was raised by the Intertribal Agriculture Council (IAC). This important amendment made sure that young farmers

and ranchers are not adversely impacted by a crop failure or some other reason, such as family problems, that could then follow them throughout adulthood. The Office of Tribal Relations worked closely with FSA and IAC to investigate the issues involved with youth loan defaults and the language that is incorporated into the 2014 Farm Bill will help alleviate the problems IAC raised. Prior to these changes, young people who defaulted on these small loans were put in jeopardy of receiving future student loans for college or other loans for farming and ranching, simply because of the Debt Collection Act that applies to all federal departments.

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The Office of Tribal Relations worked closely with FSA and IAC to investigate the issues involved with youth loan defaults and the language that is incorporated into the 2014 Farm Bill will help alleviate the problems IAC raised.

The 2014 Farm Bill continued to prioritize loans to beginning and socially disadvantaged farmers through programs like the FSA Direct and Guaranteed Farm Ownership and Operating loan programs. USDA was given increased flexibility in determining what types of experiences should count towards the “farm management experience” requirement for direct farm ownership loans. Another change allowed lower interest rate for the Joint Financing (or Participation) loans that bring together farmers, USDA, and a private lender to leverage federal credit-focused appropriations with private lending resources.

FSA also put in place a Farm Loan Program guidance addressing many of the challenges of extending farm lending into Indian Country. This Farm Loan Program guidance (FLP-665) is entitled: “*Using Existing Regulatory Flexibilities to Lend in Credit Deserts and Areas with Unique Circumstances.*” Credit worthiness will still be required, but the potential borrower can work more closely with farm loan officers to address unique circumstances in their areas. Finally, the 2014 Farm Bill extended the life of the State Agricultural Loan Mediation Programs, which were put in place at the state level during the 1980s farm financial crisis.

In addition to other key provisions in the 2014 Farm Bill, in Section 5403, authorization was granted to cease the requirement of obtaining both a USDA appraisal and a Bureau of Indian Affairs appraisal concerning the same property when satisfying lending requirements with FSA. Prior to this change in requirements, tribal borrowers (tribes, individual tribal members or tribal corporations) experienced repetitive appraisal requirements. This provision allowed the FSA to take “notice” of an appraisal secured under an appraisal standard recognized by USDA or the Secretary of the Interior. This provision, if fully implemented, would allow tribal borrowers to save

significant money and time caused by the appraisal process when securing a loan from FSA. Finally, while few provisions in the Credit Title affect the Farm Credit System, there has been no specific statutory acknowledgement of the rights of tribal governments or groups of tribal producers to be recognized as “cooperatives” under enabling laws relating to the authority of FCS institutions to extend credit. Due to the nature of landholding and land ownership in Indian Country, some clarification of this requirement is in order but has not yet occurred.

WHY SHOULD INDIAN COUNTRY CARE?

After a period of very high farm income, there has been a downturn in recent years in farm income, and experts believe that many farm borrowers will default on farm loans in the coming months. If that occurs, the situations in the credit markets that led to the 1980s farm financial crisis and the chaos in agriculture and rural communities that ensued thereafter may be revisited. During that turbulent time, Indian Country was hit as hard or harder than most other areas of the country because of the remote and isolated nature of our farms and

the reality that in most reservation communities a “credit desert” exists alongside food deserts. Close attention must be paid to these situations as they unfold because there are many provisions of the Credit Title that still need to improve for tribal producers, and there are unique situations that apply to tribal producers that should be taken into consideration. The improvements that FSA has made in the extension of credit to farmers and ranchers in Indian

Country in the post-*Keepseagle* era continue and need to continue. Separate programs that allow for unique training and technical assistance concerning financial education and loan servicing for tribal producers must be included in future Farm Bills in

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The improvements that FSA has made in the extension of credit to farmers and ranchers in Indian Country in the post-Keepseagle era continue and need to continue.

order that the ground gained in recent years is built upon and continually improved.

The lingering administrative issues that exist when tribal producers seek loans or loan servicing and must deal with both the BIA and USDA continue to exist. Without significant attention to creating efficiencies and solving problems, the delays in approvals and the related failure to extend deserved credit to producers will continue. USDA and BIA should be required to create an administrative team to review and update all practices and regulations that hinder tribal food production, tribal food system lending, and tribal loan servicing that support and maintain food production systems upon which tribal communities rely.

EXAMPLES OF OPPORTUNITIES IN THE CREDIT TITLE

The IAC recommends the following foundational changes that should occur in the Credit Title:

- **Structuring loans to suit the business:** Several innovative loan structuring measures could be authorized in the coming Farm Bill. Currently FSA will lend 100% the cost of bred livestock. They will then subordinate their lien position to a local commercial lender for annual production costs. Increasing the amount of debt secured by the same amount of assets, sometimes by as much as 25%. If the first year of operating expenses could be included in the original loan, and amortized over the life of the secured asset; producers would end the year with cash in the bank; allowing them to take advantage of pricing opportunities on input materials, replacement stock, or expansion opportunities. Such an approach would incentivize, and build a habit of, and operating from available resources, instead of what could be borrowed on an annual basis.
- **FSA planning prices:** Occasionally commodity price cycles run contrary to the mandated FSA Planning Prices which are set on a state by state

basis. Despite a producer's inclination to plan conservatively, they are often faced with choice of accepting a plan based on those planning prices, or shutting down their operation. In cases where FSA Planning Prices were more than 20% higher than the actual prices, the producer shall receive debt restructuring that will not count towards lifetime limits on loan servicing.

- **Socially disadvantaged interest rate:** An outdated statute maintains the SDR interest rate for FSA loans at 5%. This rate was set years ago when the prevailing interest rate was in the double digits. Rather than set at a static number, it should be indexed to the prevailing rate and set at a commensurate proportion of that rate. 50% of the standard rate.
- **Make food loans at FSA:** Under current program guidelines, there is some latitude for producers whose production will take a period to fully ramp up. Initial payments can be made at the 18-month mark rather than within the first year. This same methodology should be employed for producers wishing to take their raw product to the next step in the value chain.
- **Keepsaigle class forgiveness:** It is evident that during the timeframe relevant to the lawsuit, there was a systemic and deep-rooted discrimination against Native American and other producers. Many Native Americans could avail themselves of the opportunity for debt settlement and a small monetary award to attempt to make them whole. Success in this case also included a "clean slate" when dealing with the FSA in the future. Only 3,000 of an anticipated 12,000 were successful claimants, and only 5,000 applied. Many Native American producers still feeling the disenfranchisement of decades of disparate treatment, didn't take part in the process; and consequently, debt settlement they may have received during very challenging times, and in an often hostile environment **up to 30 years ago** they are forbidden from another chance at capitalizing on the improved services of the FSA. This would be a no-cost change that would improve the opportunity for many.

NCAI, in a 2013 document recommending changes in the Farm Bill, advanced the following Credit Title changes. Any changes made by language in the 2014 Farm Bill are noted:

The Credit Title authorizes new conservation loan program, expands and enhances programs and preferences for beginning and socially disadvantaged farmers and ranchers, increases loan limits for all borrowers, and makes equine farmers eligible for emergency loans. The Title also refines and clarifies rules governing financial obligations among members of Farm Credit System. Rural utility loans become qualifying loans under Federal Agricultural Mortgage Corporation (Farmer Mac) rules.

Tribal perspective is described in each section below:

1. Fractionated Land

Because of the General Allotment Act of 1887 (also called the Dawes Act), reservation land was divided up and allotted to individual tribal members. When an allottee died, ownership of the allotted parcel was divided up among all the heirs, with each Indian heir receiving an undivided interest in the parcel. With the passing of each generation, the number of owners of such a parcel of land has grown exponentially, resulting in hundreds of owners of each parcel. The resulting highly fractionated ownership of much Indian land today reduces the usefulness and value of the land and increases administrative costs to the U.S. government and the tribes. Amendments to current programs could reduce the waste and expense burden on the individual owners, the tribes and the federal government by encouraging individual Indians to purchase and consolidate highly fractionated lands, funding local financing intermediaries and ending duplicative appraisal requirements.

Recommended Provisions

A. Amend and expand the Indian Land Acquisition Program to provide loans for individual Indians to purchase highly fractionated lands. The existing program is open only to the Indian tribes and tribal corporations established pursuant to the Indian Reorganization Act. Expanding the program to

individuals would expand credit availability to qualified producers and reduce federal government expense in administering highly fractionated land.

B. Amend the Loans to Purchasers of Highly Fractionated Land Program.

The 2008 Farm Bill created a program located within the USDA Farm Service Agency (FSA) that was to authorize FSA to make and insure loans to Indian Tribes to facilitate the acquisition of lands or interests within the Tribe's reservation, or within a community in Alaska, to encourage the consolidation of fractionated lands. The language as originally passed required FSA to obtain approval of the Bureau of Indian Affairs' Indian Land Consolidation Program for post-probate applications to purchase fractionated land interests. The need for this program has not diminished, however the program in its original legislative language was unworkable, particularly in the period before Cobell settlement approval. After consultation with Tribal leadership throughout the US, the resounding recommendation was that the program should be amended by Congress to delete the requirement of BIA approval and further to allow the deployment of the program as a revolving loan fund through such organizations as the Indian Land Tenure Foundation which already has a program allowing purchases. By amending the existing language, the program would allow greater flexibility to purchase small interests and avoid lengthy probate processes.

[NOTE: After this publication, the language was approved in the final version of the 2014 Farm Bill and producers now do not have to be burdened with two appraisals on the same property.]

Existing Language (with proposed amendments):

25 U.S.C.A. § 488. Loans to purchasers of highly fractionated land

(a) In general. The Secretary of Agriculture is authorized to make loans from the Farmers Home Administration Direct Loan Account created by section 1988(c) of Title 7, and to make and insure loans as provided in sections 1928 and 1929 of Title 7, to any Indian tribe recognized by the Secretary of the Interior or tribal corporation established pursuant to

the Indian Reorganization Act (25 U.S.C. 477), which does not have adequate uncommitted funds, to acquire lands or interests therein within the tribe's reservation as determined by the Secretary of the Interior, or within a community in Alaska incorporated by the Secretary pursuant to the Indian Reorganization Act [25 U.S.C.A. § 461 et seq.], for use of the tribe or the corporation or the members of either. Such loans shall be limited to such Indian tribes or tribal corporations as have reasonable prospects of success in their proposed operations and as are unable to obtain sufficient credit elsewhere at reasonable rates and terms to finance the purposes authorized in sections 488 to 494 of this title.

(b) Highly fractionated land

(1) In general. Subject to paragraph (2), the Secretary of Agriculture may make and insure loans in accordance with section 1929 of Title 7 to eligible purchasers of highly fractionated land or to intermediaries to establish revolving loan funds for the purchase of fractionated land pursuant to section 2204(c) of this title. (Highlighted language should be removed and the italicized language should be inserted.)

(2) Exclusion

Section 491 of this title shall not apply to trust land, restricted tribal land, or tribal corporation land that is mortgaged in accordance with paragraph (1).

2. Remove the Graduation Requirement for FSA programs.

Due to the general lack of credit availability on Indian reservations, it is difficult to access tenable credit rates for even experienced producers operating farms and ranches on trust lands. Removal of the statutory requirement for graduation from FSA programs for producers on Indian Reservations would allow agriculture operations to be more stable. The deletion of a graduation requirement would assist other producers as well who farm and ranch in areas where credit access is tenuous at best.

3. Remove the Requirement for Private Credit Denial.

Clearly state that three (3) denial letters from private credit sources is not a requirement for Tribal members to participate in an FSA loan program. Currently

the practice is to require three (3) denial letters from private credit sources to be considered for FSA loan programs. On Indian reservations, there is a general lack of private lending at all, which renders the requirement onerous and unduly burdensome. By removing the private credit denial provision other producers who reside in locations where private lending is inaccessible would also be assisted.

4. Amend requirements concerning Rural Youth Loan Debt Collection.

Many Native or rural youth access "youth loans" through FSA to assist them in participation, at a very young age, in such programs as FFA, 4-H or other youth agriculture leadership development programs. Accessing lending to begin building a livestock herd at a very early age can help overcome the challenges of entry into a very capital intensive commercial activity. These loans have high success rates both among Native and non-Native youth. However, if the loan moves into a troubled loan status, these loans are subject to federal Debt Collection Act and as such can seriously impact a young person's ability to access loans for college, a vehicle, or their first job. These loans are generally less than \$5,000 and are used to provide youth the opportunity to gain experience through FFA, 4-H or other beginning farmer experiences. If a youth loan goes into default, the borrower is referred to Treasury for further action, thus making the young person subject to debt collection and negative impact when applying for government-backed student loans, or other federal programs or services when they become an adult. In some situations, the parents are primarily responsible for the loss but the collection activity affects only the youth. Decoupling youth loans from certain federal collection requirements would avoid causing long term harm to student borrowers. This provision would assist native youth as well as all rural youth seeking experience in farming and ranching through the youth lending program. (NOTE: This provision was included in the 2014 Farm Bill in its final version).

5. Changes to Definitions of Land Owned by Indian Tribes

There is no common definition of "land owned by

Indian Tribes” across all USDA programs. As such, inconsistent program access even within programs run by a single agency can occur. An alternative to placing the definition in a section having application broadly across the entire Department, is to place it within the Definitions section of the Conservation Title, where the most common problems associated with lack of common definition are most pronounced (WRP, VPA, CRP, etc.).

A. Add language in a Definition section applying to all USDA administered programs across all relevant titles (as opposed to each individual title/program):

“Land owned by Indian Tribes or Tribal Members” shall mean:

- (1) Land held in trust by the United States for individual Indians or Indian Tribes; or
- (2) Land, the title to which is held by individual Indians or Indian Tribes subject to Federal restrictions against alienation or encumbrance; or

- (3) Land which is subject to rights of use, occupancy, and benefit of certain Indian Tribes; or
- (4) Land held in fee title by an Indian, Indian family, or Indian Tribe; or
- (5) Land owned by a native corporation formed under 25 U.S.C. Section 477, 43 U.S.C. Section 1606 or 43 U.S.C. Section 1607; or
- (6) A combination of one or more of the lands listed above.

6. GAO Study

The Intertribal Agriculture Council, based on its finding of the existence of “Credit Deserts” in Indian Country, asserts the need for an in-depth analysis by the Government Accountability Office into the nature of credit in Indian Country; specifically examining compliance with the Community Reinvestment Act by banks on and near Indian Reservations.²⁶



TITLE VI: RURAL DEVELOPMENT



The Rural Development Title creates programs that support: rural business and community programs; housing; rural infrastructure, including electric and telecommunications services; rural water and sewer infrastructure; and rural hospitals and healthcare, among many other programs. As the only agency within federal government that focuses solely on the needs of rural America, the provisions within the title are extremely important to rural citizens, including those who live within Indian Country.

Many of the programs in the Rural Development Title are based on loan authorities, and some are delivered through grant programs. The USDA services the loan portfolio, and the infrastructure programs specifically are facilitated by a team of technical service providers who help communities and potential borrowers analyze infrastructure needs, develop engineering specifications, and analyze financial feasibility of projects. The needs of infrastructure in rural America have likely never been greater except during the early periods of attention to the needs of rural people and places. Electricity programs contained within the Rural Development Title were preceded by early laws such as the Rural Electrification Act of 1936 which addressed the profound needs of rural communities that were not being serviced because commercial providers had no economic incentive to serve smaller population groups. Rural cooperatives (electric and telephone) were created under laws dating back to the 1940s, and they have been relatively successful in bringing most services to rural areas by funding such activity and making investments where investments might not otherwise happen. However, Indian Country for the most part has not been the beneficiary of such programs. Without critical infrastructure — water, sewer, electrical, telephone, broadband, energy, etc. — rural America and Indian Country will be left further behind than they already are and will be unable to build or sustain thriving economies and businesses. Critical infrastructure in these locations is already in crisis mode, but in many locations throughout Indian Country, that infrastructure was never built in the first place.

The Rural Development Title contains many provisions that are vitally important to tribal governments, communities, and businesses. Among these programs are: Rural Water and Waste Disposal Loan and Grant; Emergency and Imminent Community Water Assistance; Water and Waste Facility Loans and Grants; Water Systems Grants for Rural and Native Villages in Alaska and Hawaii; Solid Waste Management Grants; Rural Water and Waste Water Circuit Rider Program; Household Water Well Systems Program; Community Facilities Loan and Grants; Rural Business Development Grants; Value-Added Producer Grants; Agriculture Innovation Center Demonstrations; Rural Cooperative Development Grants; Intermediary Relending; Rural Microentrepreneur Assistance; Rural Business Investment; and Rural Housing.

The 2014 Farm Bill extended most rural development programs but generally reduced funding authorization levels for some programs while increasing funded for others, and provided limited mandatory funds. Rural electrification and telephone loan programs were extended with minor changes and several programs in rural business development, energy, and broadband were amended, introduced or replaced. There was a new focus on regionally focused economic development strategies and some programs experienced eligibility changes, including amendments to the definition of “rural” in some programs.

The **Value-Added Agricultural Product Market Development Grants Program** was extended with increased mandatory funding from \$15 million to \$63 million per fiscal year. Veteran farmers and ranchers were specifically made eligible for a priority in funding and the Secretary is required to give priority to projects that contribute to creating or increasing marketing opportunities for certain types of operators, farmers, and ranchers.

Rural broadband telecommunication services programs were extended with new eligibility requirements for loans, follow-up on loans granted, data collection metrics, and studies of loan

program effectiveness. Broadband is redefined as transmission capacities of 4-Mbps downstream and 1-Mbps upstream. The new Rural Gigabit Network Pilot Program aims to bring ultra-high-speed Internet service to rural areas.

Integration of **information technologies** funding was authorized for integrating Internet processes into business practices. The Rural Business Development Grants program may be used directly for establishing centers to provide training to rural businesses in interactive technology and to support projects for development of enterprises that facilitate the operation of rural distance learning networks and rural learning programs.

The **Rural Energy Savings Program** was created to help families and small businesses in rural areas achieve cost-effective energy efficiency with annual funding authorized at \$75 million.

The **Rural Business Development Grants Program** was authorized at \$65 million annually and replaces the Rural Business Enterprise Grant Program and Rural Business Opportunity Grant Program. **The Rural Microentrepreneur Assistance Program** was extended with mandatory funding of \$3 million.

The Secretaries of Agriculture and Transportation were mandated to complete an updated study on **rural transportation** issues (freight transportation of agricultural products, renewable fuels, and other issues of importance to rural community economies) within one year. Eligibility for **Rural Housing Service** programs authorized under the 1949 Housing Act was modified so that eligibility is consistent through the 2020 Census. User fees for baseload generation in the Rural Development Electric program allow the program to finance new baseload generation.

The 2014 Farm Bill also reduces authorized funding for many programs, including: Rural Water Circuit Rider Program (reduced from \$25 million to \$20 million annually); Solid Waste Management Grant

program (limited to \$10 million annually from a previous unlimited level); Household Water Well System (reduced from \$10 million to \$5 million annually); Rural Cooperative Development Grant program (\$50 million to \$40 million annually); Rural Business Investment Program (reduced from \$50 million to \$20 million annually); Distance Learning and Telemedicine Program (reduced from \$100 million to \$75 million annually); Agriculture Innovation Center Demonstration Program (reduced from \$6 million to \$1 million annually).

A new **Rural Gigabit Network Pilot Program** provides \$10 million annually for ultra-high-speed Internet service in rural areas which will elicit new data on the need for, and the economic effect of, ultra-high-speed Internet technologies in rural settings. The Rural Utilities Service Broadband Loan program continues, with improved reporting and data collection requirements.

In addition to the sections discussed above, the 2014 Farm Bill included reauthorization of the **Tribal College and University Essential Community Facilities Program** through 2018. This provision is found in Section 6005 and includes tribes in the essential community facilities technical assistance and training program.

The **Water and Wastewater** programs have been extended and \$150 million in mandatory funding for the programs was authorized. Emergency water assistance programs, rural water well programs, solid waste management grants program, and the Alaska Native village rural water programs were all extended.

Rural Business and Industry Loan Program and **Rural Business Development Grants Program** were extended and tribes were specifically identified as eligible. These programs include grant funds for planning, technical assistance and feasibility studies for rural business development projects. Rural cooperative development grants were extended, along with local and regional development food projects were extended. Rural

economic development partnerships program, rural microenterprise development programs, and the intermediary relending program were extended and tribes were included.

Electrification and broadband telecommunications programs were extended and new language was included concerning national rural broadband mapping and attention to the needs of those not covered by broadband. In addition, distance learning and telemedicine programs were extended and a rural gigabit network pilot program was created.

The **Value-Added Agriculture Product Development Program** was amended and extended; ag innovation center programs were extended; regional economic development infrastructure programs were included; and strategic economic and community development programs were included. An administrative notice that released between the 2008 and the 2014 Farm bills clarified that tribal food enterprises of all types were entitled to full participation in the program. The USDA Rural Development (RD) offices had labored for many years under false assumptions about ownership of agricultural products and common ownership patterns, and the administrative notice clarified and provided key examples that offered clarity to RD field offices that began to see more Indian Country value-added projects being funded. In the Value-Added Producer Grant Program, the bill provided \$63 million over five years to assist farmers with the development of high-quality farm-based products differentiated by production processes, physical segregation, or marketing.

The bill also adds veteran farmers and ranchers to the priority eligibility category for the Value-Added Producer Grant Program and makes very important changes to the determination of which projects from groups of producers receive priority consideration. Priority will be given to those projects that “best contribute” to creating or increasing marketing opportunities for small and mid-sized family farms and beginning, socially disadvantaged, and veteran farmers or ranchers.

Rural Business Opportunity Grant and Rural Business Enterprise Grant programs were merged into one program, known as **Rural Business Development Grants**, with authorization for up to \$65 million in discretionary funding per year over five years, but no mandatory funding. The bill limits the use of funds for certain activities previously funded by Rural Business Opportunity Grants, allowing up to 10 percent of total appropriated dollars to be used for planning projects, technical assistance and training to existing or prospective entrepreneurs and managers, localized economic development planning, and certain business training centers.

WHY SHOULD INDIAN COUNTRY CARE?

The 2008 Farm Bill included a provision called the Substantially Underserved Trust Area (SUTA). This provision applied to some, but not all, RD programs and authorities (mainly to basic infrastructure such as water) and allowed those who could demonstrate that they existed in a “substantially underserved trust area” to gain access to important waivers of program requirements, lower interest rates, longer repayment terms, and similar assistance through RD programs. In addition to clearly applying to many areas of Indian Country, the SUTA provision also proved helpful to territories of the U.S. During the 2008 implementation period and the months approaching the negotiation of the next Farm Bill, USDA officials discussed publicly their willingness to apply SUTA throughout the RD programs and authorities. This important provision should resurface in future Farm Bill negotiations. It will go a long way to ensuring more equitable access to RD programs and authorities, and can be used to provide important support to tribal citizens living in remote, rural, isolated communities who are in dire need of the impact of RD programs.

By the end of FY 2016 (September 30, 2016) USDA RD had 28 tribal projects on hand that were not funded. Of those, 15 were complete applications that could have been funded if the agency had access

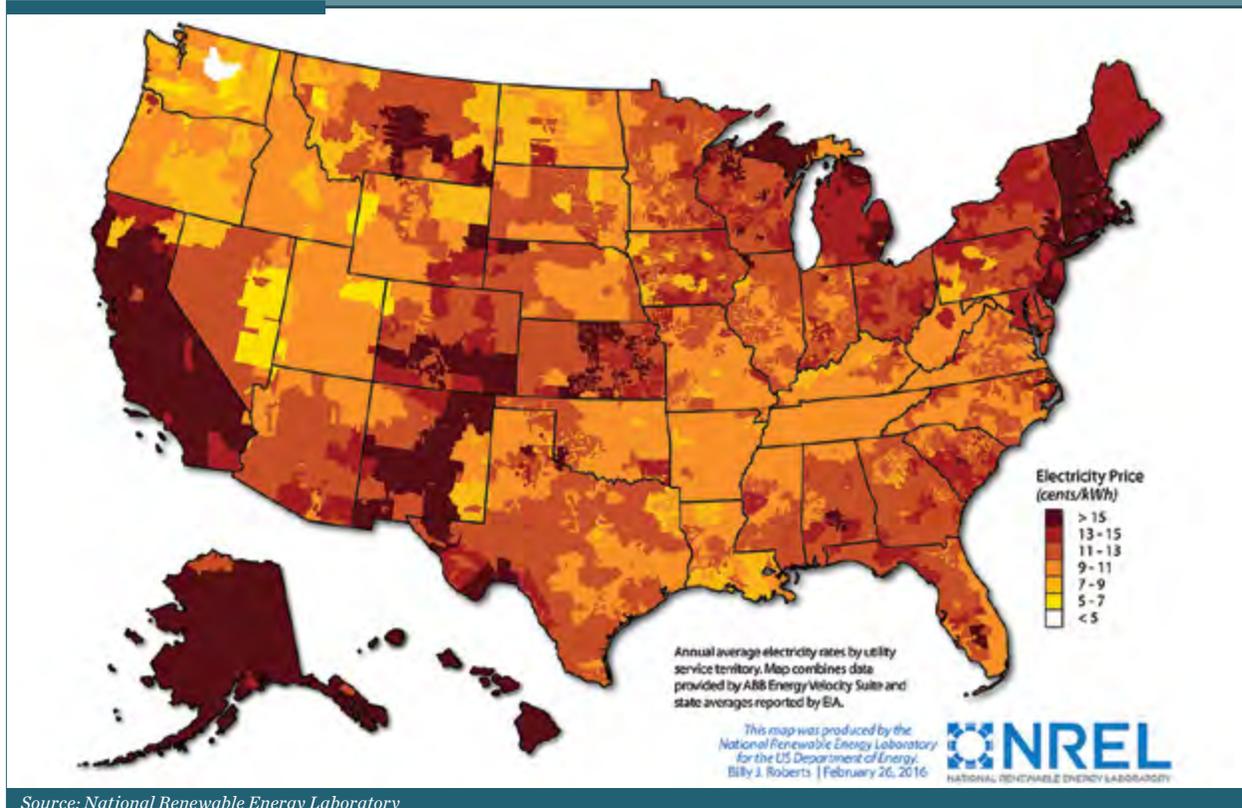
to more funding. The 15 complete applications requested \$18 million (\$16.8 million in grant funding and \$1.2 million in direct loan financing). The 13 incomplete applications requested \$37.1 million (\$18.8 in grant funding and \$18.3 in direct loan financing). The Indian Health Service also reports a gap between available funds and need in Indian Country and Alaska.

As to RD electric programs, in FY 2016 there were loan funds remaining at the end of the year. Almost all funding in the RD electric programs are used by electric utilities. In FY 2016, USDA RD provided Electric Loans to Tohono O’odham Utility Authority and Yakama Power. In that same program area, RD has the High Energy Cost Grants Program that provides grants to help lower the cost of electricity in areas where energy costs are 275 percent of the national average or higher. Most of the communities that receive assistance in the program are off the grid, very remote, and have high variability in temperatures. Consequently, much of the program is focused on Alaska and the Navajo Nation. In that program’s FY 2016 competition, RD

received more than \$48 million in eligible requests with substantial representation from tribal entities and Native Alaskan corporations, yet only \$16.9 million was available. So, the high levels of need in Indian Country go unmet.

The Indian Health Board, in testimony offered to Congress in March 2017,²⁷ cited significant needs in the realm of hospital infrastructure, sanitation needs in communities, housing for medical professionals, and other key deficiencies in funding. The agencies of RD will often partner with other agencies of the federal government, such as Environmental Protection Agency, Indian Health Service (IHS), or others, to provide funding for much needed projects. The project needs in Indian Country include: 6 percent of all tribal houses are in need of adequate sanitation facilities and approximately 47 percent of all American Indian/Alaska Native homes are in need of some form of sanitation facility improvements. Indian Health Service estimates in 2017 that the backlog for sanitation facilities is approximately \$2.5 billion, according to its Sanitation Deficiency System.

ELECTRIC RATES: Residential, 2013



Source: National Renewable Energy Laboratory

Housing for medical professionals needed to staff reservation, rural and remote medical facilities that Indian Health Service is obligated to provide for Native people reflects (as of 2017) 1,550 vacant positions within medical staff due solely to lack of housing. Large numbers of IHS facilities do not currently have sufficient bandwidth to offer telehealth and related services. Approximately 50 percent of the IHS sites still depend on circuit connections based on one or two T1 lines (3Mbits). IHS estimates that a fully operational enterprise telehealth program could be supported at a cost of \$75 million annually. The IHS further estimates that it could cost up to \$3.5 billion, over two to three years to transition the agency from Resource and Patient Management System to a full commercial suite of comparable capability. (The entire annual budget of the IHS is under \$5 billion). Estimates indicate adding supplemental appropriations of \$3.5 billion to purchase or develop a much-needed new Health Information Technology system for the existing system. Significant needs also exist in biomedical equipment for facilities within the Indian Health Service system and for health information systems.

EXAMPLES OF OPPORTUNITIES IN THE RURAL DEVELOPMENT TITLE

First, IAC is correct. The implementation of the SUTA provisions throughout all RD programs and authorities is much needed to improve the economies of tribes in rural areas. **In addition, IAC offers the following foundational recommendations for Rural Development Title needs:**

Uplift America: *The concept of getting all loan guarantee authority batched up and obligated annually is a game changer. The requirements put upon CDFIs to participate in this endeavor are patently prohibitive. Only the largest CDFIs could secure any meaningful funding levels, and some had threatened litigation to do that. A process must be developed to allow small, new, and emerging CDFIs access to this valuable tool.*

Rural Electric Loan and Grant Program: *Rural electric cooperatives are uniquely poised to be economic development drivers in*

their communities. Often, they choose not to avail themselves of this opportunity. In cases where a rural electric cooperative chooses not to participate in this program for a period, this opportunity should be extended to local CDFIs to carry out the function.

Substantially Underserved Trust Area (SUTA): *In addition to preserving the existence of current programming, the further broadening of the “Substantially Underserved Trust Area” (SUTA) provisions is needed. They are currently applied to a small segment of the infrastructure programs, but more explicit guidance must be provided to allow the Secretary to exercise this discretion more broadly.*

In its FY 2017 budget request to Congress, NCAI offered these fundamental recommendations for improving the Rural Development Title:

Rural Development, Rural Housing and Community Facilities Programs: *Authorize a set-aside of \$20 million from the Rural Development 502 Direct Loan Program to establish a demonstration relending program for Indian Country. Rural Development has limited staff resources to provide Single Family Housing direct loans on tribal land.*

In FY 2014, of the 6,575 direct loans made nationally by Rural Development, only seven of them were to American Indians or Alaska Natives on tribal land. Native community development financial institutions (Native CDFIs) have experience operating on tribal land. In addition, they provide extensive financial and homebuyer education to their clients. The proposed demonstration relending program would make Native CDFIs eligible borrowers under the 502 direct loan program and enable them to relend to eligible families for the construction, acquisition, and rehabilitation of affordable housing.

Rural Development, Rural Utilities Programs, and Rural Housing and Community Facilities Programs: Provide a minimum of \$2.5 billion to USDA Rural Development. *As tribes seek to build sustained prosperity and economic security, it is imperative that tribal citizens and businesses on tribal lands have access to environments that are stable, conducive to economic and community development and supportive of schools, health facilities, first responders and businesses.*

The Department of Agriculture's Rural Development (USDA-RD) programs support a broad array of utility needs and business activities in Indian Country by providing loans, grants, and other assistance for community facilities, housing financing, preservation and repair, electric utilities, high-cost energy, telecom infrastructure and distance learning, broadband infrastructure, water/waste systems and other infrastructure deployment. USDA-RD manages programs across three mission areas – the Rural Business and Cooperative Programs (see Economic Development section above), Rural Housing and Community Facilities Programs, and Rural Utilities Programs. Through its Rural Development mission area, USDA administers and manages housing, business, and community infrastructure and facility programs through a national network of state and local offices. These programs are designed to improve the economic stability of rural communities, businesses, residents, farmers, and ranchers and improve the quality of life in rural America.

Provide \$9 billion to Rural Utility Services: *The FY 2016 budget for Rural Utility Services saw a slight increase, but continues to be below FY 2012 and 2013 levels nearly \$2 billion dollars, and is down almost \$100 million from FY 2014. USDA-RD began implementing changes in 2012 designed to improve access to RUS funding for individuals living in Substantially Underserved Trust Areas (SUTA – including Indian lands and lands owned by Alaska Native Regional Corporations and Village Corporations – to improve basic services, including: water and waste disposal, rural electrification and high-cost energy, telecommunications and broadband infrastructure, and distance learning and telemedicine. The SUTA changes, authorized by the 2008 Farm Bill (but not appropriated), still require additional funding for administration as well as for programs and loan authority within RUS. It is important that more funding is available to provide the infrastructure development and upgrades necessary in Indian Country.*

Of special concern is the need to maintain funding for tribal set-asides for water, wastewater, and solid waste management for Indian Country and Alaska Native villages. USDA's Water and Environmental Program (WEP) provides a combination of loans, grants, and loan guarantees for drinking water, sanitary sewer, solid waste, and storm drainage facilities in tribal and rural areas and cities and towns of 10,000 or less. WEP also makes grants to nonprofit organizations to provide technical assistance and training to assist rural communities with water, wastewater, and solid waste management. Since FY 2013, funding for WEP was substantially cut and only provided tribal-specific grants and loans of \$22 million for tribes in the lower 48 states and \$23 million for Alaska Native villages, equaling cuts of \$26 million and \$61 million respectively. The FY 2016 budget allocation of \$64 million remains static as it must be split amongst tribes in the contiguous United States, Alaska Native tribes, and Native Hawaiians.

More than 12 percent of tribal homes lack access to safe drinking water and basic sanitation, which is a

rate more than 20 times the national average.²⁸ For example, many Alaska Native villages must transport human waste in large containers to open pit sewage lagoons. The federal government's failure to address this situation is unacceptable, especially in light of its trust obligation to tribal nations. The existing federal budget does not make a significant dent in addressing this fundamental deficit in quality of life for Native peoples, and recent cuts to this budget makes it worse, exposing Native peoples and youth to unhealthy water and its subsequent detrimental impacts to human health, economic development, and community morale.

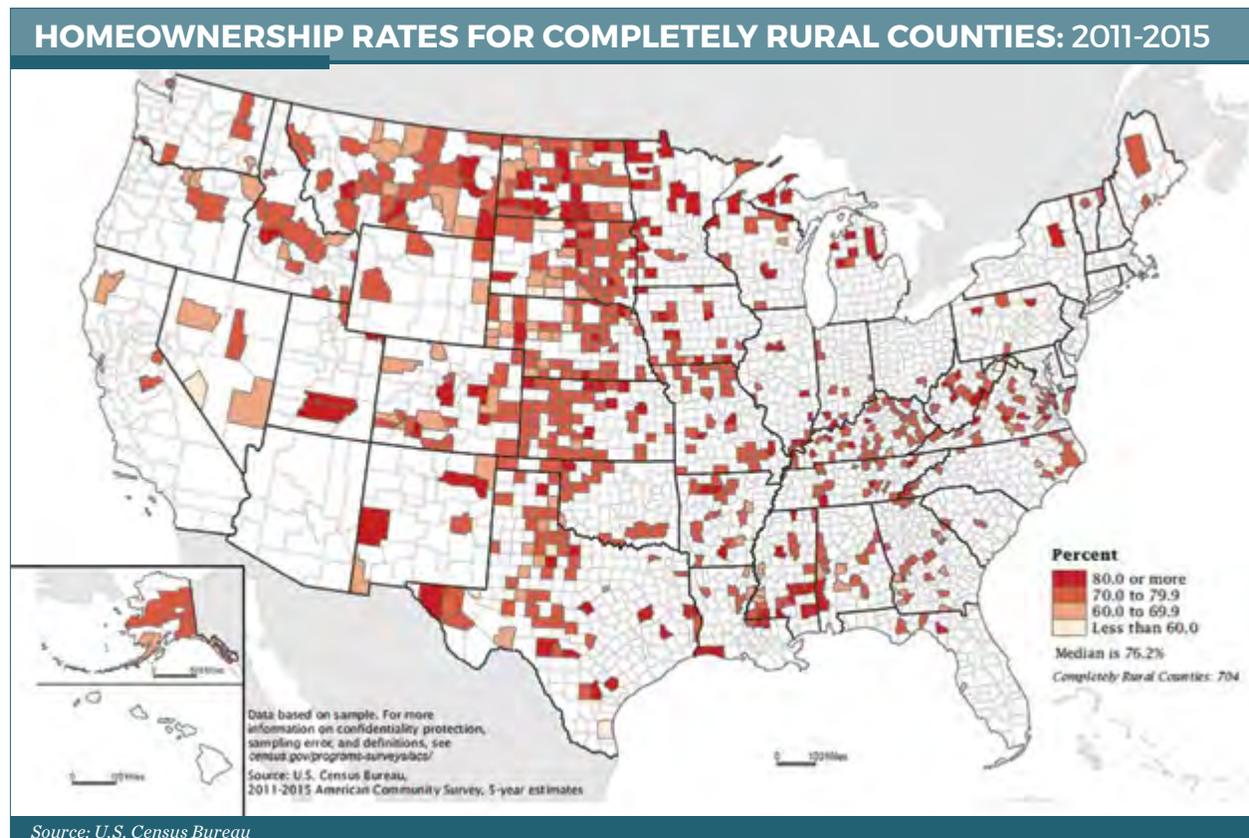
Rural Development, Rural Housing and Community Facilities Programs: Provide a minimum of \$28 billion in loan authority for the Rural Housing and Community Facilities Programs: In FY 2013, the Rural Housing Service (RHS) programs provided \$177 million in economic support to American Indian and Alaska Native enterprises and communities as well as tribal colleges. RD provided 56 Single Family Housing direct loans, equaling \$119 million, and 1,100 Single Family Housing loan guarantees at \$155 million. Tribal

colleges received \$3 million for 24 grants under the Tribal College Community Facilities Initiative, and tribal communities received more than \$114.7 million in loan and grant financing under the Community Facilities Program.

Access to housing, community and home repair financing provides Native individuals, families and communities with security, credit facilities, and repair and weatherization needs. This financing also supports community and educational facilities and provides employment in construction and related industries that flows from access to capital in Indian Country.²⁹

In 2013, NCAI issued the following comments concerning a similar set of recommendations for the Rural Development Title:

The Rural Development Title of the Farm Bill supports business and community programs for planning, feasibility assessments, and coordination activities with other local, state, and federal programs to provide rural economic development opportunities.



Source: U.S. Census Bureau

Programs include rural development loan and grant programs and authorize several new provisions, rural infrastructure, economic development, and broadband and telecommunications development, among other programs.

Tribal Perspective:

The most critical agency in the federal government to the long term rural economic and infrastructure needs in Indian Country is the Rural Development agencies within USDA. Rural Development has within its general and historic authorities' programs that are comprehensive to the needs of rural people and are critical to the needs of communities. Among these are: water and wastewater, broadband, electrification, housing, business development, and more. Rural Development has full lending authority and is one of two "banks" within the USDA program family. Ensuring greater access to, utilization of, and engagement with Rural Development programs is critical to the success of Indian Country. In addition, the Rural Development agencies are home to most of the USDA work in Energy, making the engagement of the Department with their sister agency the DOE, an important focus in the years to come.

Many of the tribal requests are included under general provisions that are applicable to all, with special emphasis and priorities on underserved communities. Continued funding for infrastructure such as housing, energy, broadband services, and water and waste water systems as well as community development, regional authorities, and other new programs is needed. Tribal lands continue to operate with either outdated systems or a complete absence of vital infrastructure. It is essential that targeted funding be streamlined and made available to tribes to acquire, invest in, and maintain these infrastructures.

1. Broadband

A. Extend the three-year buildout requirement to a five-year period. Tribal lands face numerous barriers to broadband deployment that occasionally make it difficult to complete projects within the three-year broadband service build out requirement, and provide complications for USDA reporting requirements. Extension of the build out requirement will allow

tribes additional time to acquire necessary rights-of-way permits through tribal and allotted lands ('checker board areas' and non-Indian fee lands within reservation boundaries), address issues with environmental impact studies, and provide additional time to address tribal specific cultural needs.

Recommended Provisions

INSERT NEW:

"(a) In General. —Section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) is amended to read as follows:

"(d) Eligibility. —

"(1) Eligible Entities. —

"(A) In General. —To be eligible to obtain a loan or loan guarantee under this section, an entity shall—

"(iii) agree to complete buildout of the broadband service described in the loan application by not later than 5 years after the initial date on which proceeds from the loan made or guaranteed under this section are made available."

B. Include Community Connect Grant as eligible for SUTA Provisions

The Substantially Underserved Trust Area (SUTA) provisions promulgated by the 2008 Farm Bill (Public Law 110-234, May 22, 2008) allow tribes to participate in loan, loan guarantee, and grant programs available through the Rural Utilities Service. Eligible programs for SUTA:

- Rural Electrification Loans and Guaranteed Loans, including High Cost Energy Grants
- Water and Waste Disposal Loans, Guaranteed Loans and Grants
- Telecommunications Infrastructure Loans and Guaranteed Loans
- Distance Learning and Telemedicine Grants
- Broadband Loans and Guaranteed Loans

Due to high non-connectivity rates of broadband service in Indian Country, and to create a more level playing field for tribal participation in USDA Rural Utilities Service programs, the Community Connect Program should be added to the list of the eligible programs for SUTA. Although the program was just recently announced a budget of \$10,372,000 for Fiscal Year 2012, which is a relatively small number of funds compared to other RUS programs, tribes should be

able to utilize the SUTA provisions to obtain a priority to a certain percentage of funds.

Recommended Provisions

Amend Sect. 306F. Substantially Underserved Trust Areas (7 U.S.C. 936f), (c) Authority of the Secretary by inserting after (c)(4) the following:

“(c)(5) shall give preference to federally-recognized tribes for the all Rural Utilities Service grant programs.”

C. Allow Eligibility for Current RUS Loan Recipients to Refinance at the SUTA 2% Interest Rate One of the Substantially Underserved Trust Areas (SUTA) provisions includes an authorization for the Administrator of RUS to finance loan, grant, and combination loan and grant programs with interest rates as low as two percent and extended repayment terms. Tribes have expressed interest in having the ability to request the Administrator to refinance their existing loans under the SUTA provisions, those loans used for financing telecommunications infrastructure projects on tribal lands. Since the Federal Communications Commission (FCC) have adopted and implemented the USF/ICC Transformation Order, numerous tribal and rural RUS loan recipients have expressed concern over the loss of USF subsidies and how it could affect their RUS loan repayment. Enabling tribes, or those telecommunications providers serving SUTA eligible tribal lands, with the ability to refinance at the ‘as low as’ 2% interest rate would dispel concerns regarding loan repayment terms and telecommunications providers losing subsidies due to ICC/USF reforms being implemented at the FCC.

Recommended Provisions

Amend Sect. 306F. Substantially Underserved Trust Areas (7 U.S.C. 936f), (c) Authority of the Secretary to read as follows:

“(a)(2)(c) Authority of the Secretary

“In carrying out subsection (b), the Secretary---

(1) may make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;

(2) may permit refinancing of loans described in

previous paragraph (1) with an interest rate as low as 2 percent, and with extended repayment terms to previously awarded loans;

(3) may waive non-duplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;

(4) may give the highest funding priority to designated projects in substantially underserved trust areas; and (5) shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.”

D. Amend the Definition of Trust Lands to Include Tribal Fee Lands Eligible for SUTA

During the rulemaking process where the USDA was soliciting comments on the implementation of the 2008 SUTA provisions, RUS responded to tribal commenters requesting USDA to extend the SUTA provisions to, “all land (including all ‘fee land’) within tribal reservation boundaries to be qualified as trust lands for the SUTA Provision” (Federal Register/Vol. 77, No. 114/Wednesday, June 13, 2012, pg. 35247). RUS’ response for not including tribal fee lands as eligible for the SUTA provisions stated, “With regard to trust land status, the RUS does not have the authority to adjust the statutory definition of trust lands. RUS understands the unique ‘checker board’ character of trust and non-trust lands in tribal communities. The agency, consistent with its current practice, may consider SUTA related applications that include non-Trust territories when the service to or through those areas are ‘necessary and incidental’ to improving service to the Trust area.” Generally, non-trust lands or tribal fee lands are severely fractionated, which could hamper proposals and completions of SUTA eligible projects.

2. Housing

Ensure tribal governments are eligible for USDA housing programs as direct recipients of funding. Tribal access to a range of USDA housing programs would significantly impact the capacity of tribes to deliver affordable housing services. Specific programs that should include direct tribal access include: the Section 515 Rural Housing Loans; Section 502

Direct Housing Loans; Section 504 Very Low Income Home Repair Grant and Loan Program; Section 533 Housing Preservation Grants; Section 538 Guarantee Program; and USDA Rural Development's Rural Utilities Services.

Recommended Provisions

INSERT NEW provision of S.3240, Title VI Rural Development, Subtitle C Miscellaneous:

"SEC. _____. Housing and Community Development Programs and Activities – Indian Tribes and Low Income Tribal Members.

(a) In general. - The Secretary is authorized to help directly to Indian tribes, their tribally-designated housing entities, and their low-income tribal members in Indian areas for the following housing programs and activities:

- (1) rural housing loans (42 U.S.C. §1471-§1472);*
- (2) direct housing loans (42 U.S.C. §1472(h));*
- (3) very low income home repair grants and loans (42 U.S.C. §1474);*
- (4) housing repair, rehabilitation, and preservation programs (42 U.S.C. §1490); and*
- (5) multifamily housing construction, acquisition, or rehabilitation programs (42 U.S.C. §1490p-2).*

(b) Definitions. – For purposes of this Act, the following definitions shall apply:

- (1) "Indian area" – the term "Indian area" has the same meaning as that term is used in 25 U.S.C. §4103(10);*
- (2) "Indian tribe" – the term "Indian tribe" has the same meaning as that term is used in 25 U.S.C. §4103(12);*
- (3) "Tribally-designated housing entity" – the term "tribally-designated housing entity" has the same meaning as that term is defined in 25 U.S.C. §4103(21).*

(c) Allocation of Funds. For allocation to Indian tribes and tribally-designated entities, the Secretary shall set aside from amounts appropriated for those programs and services enumerated in subsection (a) above, not less than 10 percent of the amounts made available in each fiscal year.

3. Delta Regional Authority

Ensure tribal participation on all boards and authorities that work across tribal lands.

The Delta Regional Authority is the only regional authority with Tribes that lack a Tribal Co-chairperson. Include in any reauthorization language a provision creating a Tribal Co-Chairperson who is "a member of an Indian tribe, who shall be a chairperson of an Indian tribe in the region or a designee of such a chairperson, to be appointed by the President, by and with the advice and consent of the Senate." (Note: the same holds true for membership on the Appalachia Regional Commission).

4. Match Requirements

Waiver of Match Requirements be available and that waived match requirements have no adverse effect on ranking or scoring of application submitted by social disadvantaged farmers and ranchers.

5. Value-Added Producer Grant

1. Explicitly make Tribes eligible for participation in the VAPG program.

2. Authorize the Rural Development State Director to approve applications up to \$100,000.

3. Waive match requirements for socially disadvantaged farmers and ranchers.

6. Rural Energy for America Program

1. Rural Development shall set aside ten percent of authorized and appropriated funds for the Rural Energy for America program to be utilized by Tribal governments, Tribal entities and/or individual Tribal members.

2. Waive match requirements for socially disadvantaged farmers and ranchers.

7. RD Demographics

Break demographics down to School Districts rather than counties to get a more accurate picture of poverty rates and income levels.

8. Maintain all present American Indian Programs and set asides.

Apply Substantially Underserved Trust Areas to all the RD Mission Areas.³⁰

The cumulative list of NCAI recommendations in recent years, along with the recommendations of IAC, provide a key foundation for the full utilization



of RD in Indian Country. The RD family of agencies is the most critical department for building rural and reservation economies. In addition to the important specific recommendations provided above, one additional issue should be considered.

Tribal staff, businesses, companies, or individuals who might otherwise be eligible for RD programs often choose not to apply for these programs. The tribal set-asides that existed in the Rural Business Enterprise Grants and Rural Business Opportunity Grants programs were lost when the two programs were rolled into what is now the Rural Business Development Grant Program. While tribes clearly are eligible for priority points on most applications due to need, remoteness, or other conditions, tribes do not apply with as much frequency as they could. This is largely because no centralized, consistent, and in-depth technical assistance exists to help tribal staff or tribal business entities staff understand the complexities of RD application processes, how the requirements apply to their situations, and how tribal applicants can best position themselves and their ideas for competitive success.

Because of these realities, two additional recommendations are in order: (1) a tribal set-aside in either terms of percentage of the funding portfolio or a specific funding level for tribal applications within each of the RD program authorities; and (2) a permanent office providing technical assistance across all RD funding authorities must be invested in via a cooperative agreement with USDA.

The inadequacy and general lack of rural infrastructure in Indian Country clearly supports

the need for a tribal-specific set-aside in RD programs. The trust responsibility of the federal government to tribes is the broad foundation for such set-aside. Another key reason for the set-aside

is that without dedicated funding for it, the promise of these places will never be realized and Indian Country's infrastructure will continue to decline. In many areas around the country, tribal governments are the strongest remaining rural government entity and in some locations, tribal governments are taking over the management of key infrastructure (such as water systems, electric, and

other utilities) because there is no other sound governmental or non-governmental entity located there that can handle these functions.

As to the need for technical assistance, there are two rationales for establishing such an office or entity. First, the complexities of lending and infrastructure establishment in Indian Country – tied to the nature of the trust land base – call for the establishment of such an office that can prepare and monitor lessons learned, establish simpler-to-use systems for understanding application requirements, and assist staff at the tribal or business level in preparing applications. (This is a function the federal government cannot readily undertake.) Second, the trust responsibility of the federal government to tribes supports the need to establish such assistance interventions. This is not unheard of. The RD family (particularly in the infrastructure arena) has a system of field staff who assist agency staff and the applicant in analyzing financial viability, key engineering specifications, and related technical requirements.

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The trust responsibility of the federal government to tribes is the broad foundation for such set-aside.

TITLE VII: RESEARCH



The Research Title is among the oldest of the Farm Bill, emanating from the Morrill Land Grant Act of 1862. The original purpose of the Morrill Act was to establish and fund research in land grant institutions in every state. Not surprisingly, these initial “land grants” were given to states from the lands acquired through the earliest treaties between the federal government and Indian tribes. The lands that were once the homelands of Native peoples indigenous to North America became the base for what is now the modern land grant research, education, and extension systems.

Land grant universities were expanded by the Hatch Act of 1887, which provided federal funds to establish agricultural experiment stations under the direction of each state’s land-grant college. In 1890, a second Morrill Act provided for historically black colleges and universities. The extension mission of the land grant system was launched by the Smith-Lever Act of 1914, which created cooperative extension system. Early cooperative extension agents were federal employees sent to each county and corner of the country to provide basic services to extend the knowledge and research gains of the land grant institutions to the farmers and communities in rural America. Even today, the original land grant institutions each receive annual federal “formula” appropriations to conduct ongoing research, education and extension; modern funding systems do not rely on federal funds alone but depend on a mix of federal, state and local funding. The Farm Bill authorizes formal funding through the National Institute for Food and Agriculture (NIFA), but also has expansive competitive grants programs and capacity funding as well as intramural funding to USDA research agencies. In 1994, Tribal College and Universities were granted land grant status and subsequent Farm Bills have continued to provide base funding for the research, education and extension functions of these institutions.

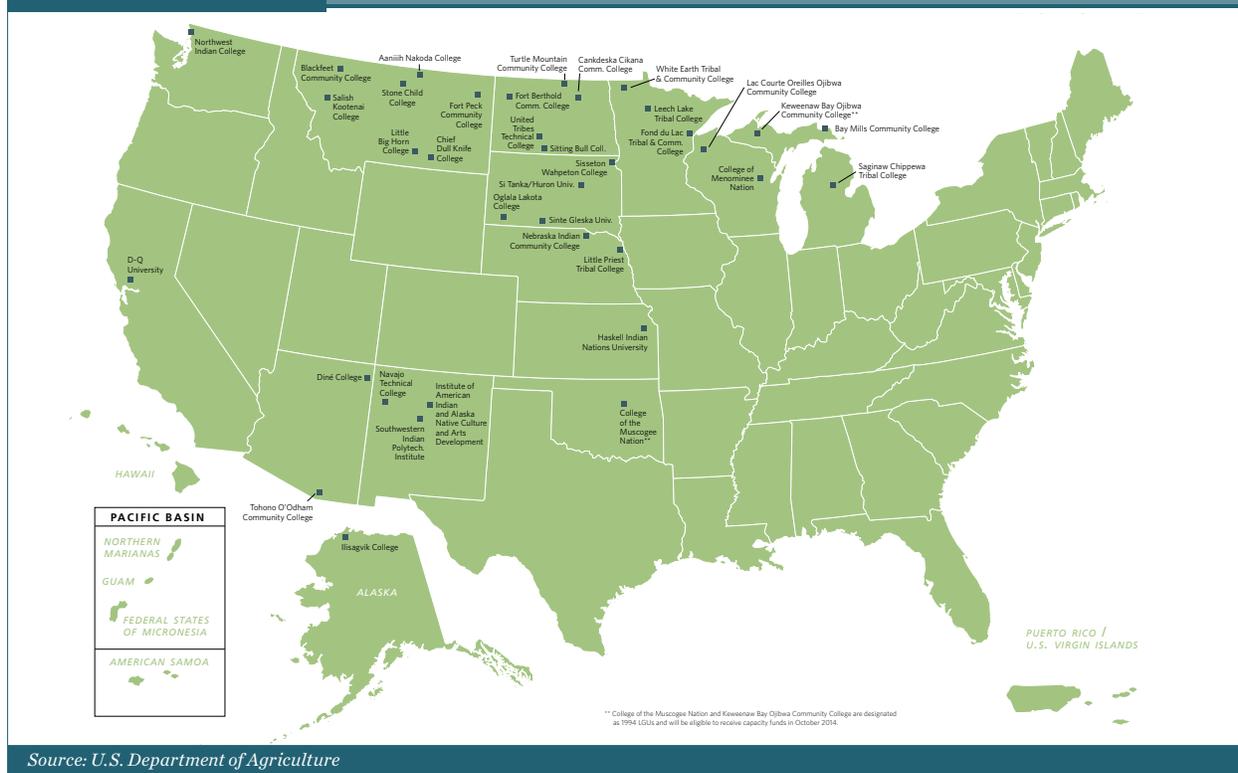
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The lands that were once the homelands of Native peoples indigenous to North America became the base for what is now the modern land grant research, education, and extension systems.

In 2008, USDA research functions were coordinated into NIFA, which funds research and extension among the land grants and other qualifying research institutions. Within the NIFA funding authorities there are more than 100 separate funding opportunities to conduct research, education, and extension throughout the country focusing on key areas of greatest concern. In the 2014 Farm Bill, a program was also created to provide training, education, outreach, and technical assistance to beginning farmers and ranchers. The Title also provides support to the intramural research arm of USDA – the Agricultural Research Service – and the economics research arm of USDA – the Economic Research Service.

In 1994, Congress granted land grant status and funded authority to the first group of Tribal Colleges and Universities (TCUs) in the Research Title, and, in each Farm Bill since 1994, more TCUs have status as land grant institutions (or 1994s). For example, the 2014 Farm Bill granted status to two additional institutions, and made changes in the name designation to others that had previously been granted land grant status. The 2014 Farm Bill reauthorized sections 533(b), 535(b)(1), 535(c), and 536(c) of the Equity in Educational Land-Grant Status Act of 1994 through 2018 which reauthorized TCU operating funds, endowments, institutional capacity building, research grants, and the Essential Community Facilities programs – all critical to sustained operation of TCUs. The law also expanded the pool of qualified partners TCUs can join with on research grants to USDA’s Agricultural Research Service, other land-grant colleges or universities, non-land grant Colleges of Agriculture, or cooperating forestry schools. It also extended other research and extension program areas at TCUs; retained the education grants program to institutions serving Alaska Natives and Native Hawaiians; created a new animal health

LAND-GRANT COLLEGES AND UNIVERSITIES: 1994



Source: U.S. Department of Agriculture

research program allowing eligibility to participate in the program for state cooperative institutions and national land grant college of agriculture institutions. The 2014 Farm Bill also created a new competitive grant program for Hispanic workers and youth and included a section of the law that requires matching funds in competitive grant programs but exempts 1994 TCU institutions from those requirements.

In 2014, the Farm Bill created **The Foundation for Food and Agriculture Research**, a nonprofit institution which fosters research and technology transfer through public-private collaborations. It mandated that \$200 million in initial funding for the foundation be matched with outside funds. Additionally, the 2014 Farm Bill broadened support for animal health and disease research and veterinary services and set aside \$5 million per year for capacity and infrastructure grants. Mandatory funding for specialty crops research and extension also increased to \$80 million per year, including at least \$25 million for emergency citrus disease research.

A new pulse crop (legume family) health initiative program that provides grants for youth organizations was created under NIFA authorities. A comprehensive food safety training initiative was created under NIFA's oversight; a pollinator health initiative program was created; and the **Beginning Farmer and Rancher Development Program (BFRDP)** was extended and amended regarding the type of content that could be the subject of training funded by grants. Additional language was included regarding student training programs and set asides for limited resource farmers, socially disadvantaged farmers, and veteran farmers in the beginning farmer and rancher funded programs, all of which could be used to fund tribal programs. The program was increased in funding to \$20 million per year for five years (until 2018). Five percent of the funding was set aside for veteran farmers, and another 5 percent solely for limited resource farmers projects, with new eligibility for competitive funding granted to community and school-based projects. Agricultural and food law research was authorized at the level of \$5 million per year, but it is unknown whether this funding was required to be awarded through a competitive funding process.

The Research title also reauthorizes the **Organic Agriculture Research and Extension Initiative** (OREI) and provides \$100 million over the life of the Farm Bill to support competitive research, extension, and education grants that address key issues facing organic producers. A priority on **farm financial benchmarking**, which will assist producers in analyzing their costs of production at the farm-unit level in relation to others similarly situated was included. Additionally, the **National Sustainable Agriculture Information Service** (more commonly known as ATTRA) and the **Organic Transition Program** were reauthorized. The **Sustainable Agriculture Research and Education Program**'s permanent authorization was removed, and the program is now only authorized through 2018, at which time it will need to be renewed in the next Farm Bill.

There are relatively few Tribal Colleges and Universities, which tend to serve local communities and are predominately two-year institutions. In the early 1990s, the **Federally Recognized Tribal Extension Program** (FRTEP) was created. In 2014, the Manager's Report to the Farm Bill stated as follows: "[D]uring the creation of the Reservation Extension Agent Program, the Congress required the Secretary to consult with Native American farmers and ranchers in establishing Extension programs on Indian reservations and tribal jurisdictions. The Managers understand that changes in the operation of grant programs have impacted this consultation, and expect that the Secretary would find ways to continue the dialogue on the operation of these Extension programs with the populations that they are serving." It is unknown the extent to which this dialogue has been occurring, or what impact it has had on Extension programs in Indian Country.

WHY SHOULD INDIAN COUNTRY CARE?

Agriculture research, education, and extension programs and services throughout the country may seem outdated or irrelevant to many. Food and agriculture research is critical to our food, health,

and self-sufficiency, but the industry only applies to a small segment of society. According to the latest USDA Agriculture Census, there are only 2 million farmers or ranchers in the U.S. Yet agriculture research is important because it monitors and explores old and new knowledge regarding plant and animal health, explores the impact of science to solve food problems, tackles societal issues related to health, and ensures our food supplies are sound and resilient. The reasons for the initial establishment of the land grant research institutions, the original extension services, and research stations are as relevant today as they were many years ago.

But research and extension of knowledge is known throughout the world as playing a "crucial role in agriculture and rural development."

In developing countries, innovation can address most of the challenges facing agriculture and natural resources management. Many developing countries, however, don't have sufficient resources to properly develop their capacity to innovate.³¹

According to the National Sustainable Agriculture Coalition:

Research underpins every aspect of successful and viable farming, whether it's a fifth-generation commodity producer looking to diversify their crop rotation, or a beginning farmer interested in tapping into the huge unmet demand for grass-fed beef.

In comparison to the enormous opportunity that sustainable agriculture represents for farmers and rural communities, federal investment in sustainable agriculture research, education, and extension has been miniscule. Without robust funding for public research that promotes ecologically-based production systems, scientific and technical innovation is stifled, and U.S. farmers and ranchers are unable to fully participate in and benefit from emerging markets for sustainably-produced foods.³²

Indian Country needs to develop its natural resources to build strong and resilient food systems.

Accessing research, building their own research systems within Tribal Colleges and Universities, and supporting educational institutions within communities is critical to stabilizing agriculture production and communities. Being able to continue focusing on the importance of traditional knowledge is best done (and some would argue should only be done) at tribal-owned and managed institutions. Extending knowledge and research outcomes into communities and onto tribal farms, ranches and food businesses is critical to their growth and stabilization. Educating the next generation of producers, scientists, technical specialists, business managers, engineers, lawyers, and the related professionals who advise and support the agriculture and food sectors is critical and making sure that Native youth aspire to those career paths is important to the survival of tribal communities and to creating viable occupations that support food and agriculture sectors in Indian Country. Without the funding in the Research title, this would likely not happen.

EXAMPLES OF OPPORTUNITIES IN THE RESEARCH TITLE

The tragic reality is that the current land grant system, with very few minor exceptions, has never fully engaged with Indian Country. That is not the case for the 1994 Tribal Colleges and Universities who are new members of the land grant family. In the beginning, the land grant system did not engage because its purpose was to support the non-Native communities that settled on Indian lands. More recently, the funding mechanisms that support those research, education, and extension systems have moved from being fully supported by the federal government to being supported by a blend of federal, state, and local funding streams. Because of the unique nature of tribal lands, those institutions

did not feel compelled to serve tribal lands or Native peoples because the systems did not readily see any funding from or on behalf of tribes.

Federal formula funding – which is based on the number of farms and ranches in a state and the number of rural citizens in a state – counts Indian people but does not require the recipients of the federal formula funding to serve Indian people. Enforcing the federal formula funding

and requiring institutions that receive federal formula funds to serve the people who are counted within the formula are important. Placing a simple percentage formula on top of the federal formula funding calculations that is equated to the number of farms in a state that exist on tribal lands and the percentage of Indian people living within the state could be a starting point for applying equity and parity in funding for the benefits of agricultural research, education, and extension. For instance, in a state such as Arizona, where many Native citizens, tribes, and tribal lands are actively involved in agricultural production, farming, and ranching, a significant percentage of agricultural research, education, and extension funding would be spent on tribal-centric projects and efforts.

IAC's main concern within the Research Title has been and remains the equitable funding for extension services and because so many tribes live outside the reach of the extension services provided through the 1862 land grant institutions. To address this, IAC has continually advocated for the proper funding of the **Federally Recognized Tribes Extension Program (FRTEP)**. FRTEP has never received more than \$3 million in annual funding, and FRTEP was inappropriately included in the competitive grant requirement implemented across all federal programs, increasing the difficulty funding for educational programs and capacity building for tribal producers. The original design

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The reasons for the initial establishment of the land grant research institutions, the original extension services, and research stations are as relevant today as they were many years ago.

of FRTEP called for a team of individuals to work with tribes to design and implement an equitable distribution of 1862 funding to ensure that tribal producers living outside the reach of existing extension agents had access to extension programs. However, further restraints have been placed on the small appropriated amounts as the TCUs seek additional funding and the 1862 institutions seek new funding authorities.

A significant increase in the FRTEP funding must be achieved if the reach of these programs/agents is to be realized, regardless of whether TCUs or 1862s living outside tribal areas are allowed access. If they are, the FRTEP funding will likely “topple” the presence of some FRTEP agents in some locations for more than 20 years. This should not be allowed to occur. During the previous administration, efforts to increase funding occurred annually but these provisions never made it into the final farm bill.

IAC has adopted the following position:

FRTEP: *The Federally Recognized Tribes Extension Programs should be funded at no less than \$10,000,000 annually.*

NCAI supports the following changes in the Research Title:

National Institute of Food and Agriculture, Federally Recognized Tribal Extension Program Increase the Federally-Recognized Tribal Extension Program (FRTEP) to \$6 million. Congress mandates research and extension services in every county in the nation. These services support farmers, natural resources managers, youth (via 4-H youth programs), and communities by providing an FRTEP agent to liaise with other USDA programs, provide training in farm and ranch business management, supervise 4-H and youth development activities, and coordinate special training programs, including application of

new agriculture technologies. While there are more than 3,100 extension offices available to farmers nationwide, fewer than 30 extension agents serve Indian reservations, with current funding of only \$3 million available to 1862 and 1890 Land-Grant Institutions and the University of the District of Columbia. An increase to \$6 million would begin to address this persistent inequity by nearly doubling the FRTEP staff and the number of Native youth served by the program.³³

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The tragic reality is that the current land grant system, with very few minor exceptions, has never fully engaged with Indian Country.

NCAI recommendations as of 2013 included the following,

many of which were included in the 2014 Farm Bill but will need to be carefully monitored and included in the subsequent Farm Bill negotiations. Examples of such reappearing sections include reauthorization of Tribal College land grant status and the inclusion of any new institutions in the list of approved land grant institutions. The funding mechanisms (discretionary vs. mandatory) for each of the policy recommendations that follow were included in the 2014 Farm Bill or will be considered in subsequent bills. These funding mechanisms must be addressed and considered and any necessary or recommended increased levels of funding must be included. **NCAI 2013 Farm Bill recommendations for the Research Title:**

The Research Title supports agricultural research education and extension programs that help farmers and ranchers become more efficient, innovative, and productive. Other types of research programs included biosecurity and response, biotechnology, organic production, food safety, nutrition, and health, and a multitude of related programs.

Tribal Perspective:

The Research Title of the Farm Bill is important to tribes in many ways. The title contains funding for the tribal colleges that Congress has provided land grant status. Important agriculture development and youth development programs are funded through the

FEDERALLY RECOGNIZED TRIBES EXTENSION PROGRAM (FRTEP)



Source: U.S. Department of Agriculture

federally recognized tribal extension program, which albeit does not cover the expanding need in those areas, has assisted in these important areas to address needs for ongoing technical assistance and important leadership development in food and agriculture. Research on the impact of climate change, sustainable agriculture, nutrition and health, food safety, and livestock and plant disease and health are some of the authorities provided in research areas. This combination of programs in research, education, and extension of knowledge are foundational to building strong rural, natural resource-based economies.

1. Tribal Colleges and Universities

In 1994, Tribal Colleges and Universities (TCUs) achieved federal land grant status through the passage of the “Equity in Educational Land Grant Status Act.” Almost two decades later, TCUs are still not recognized or funded as full partners in the nation’s land grant system and, as a result, their potential remains unrealized. The following recommendations for the 2013 Farm Bill aim to address the disparities that exist in the land grant system for TCUs.

A. Reauthorize All 1994 Land Grant Programs³⁴

The following reauthorizations include TCU operating funds, endowment, institutional capacity building grants, research grants, and the Essential

Community Facilities Program. These programs are critical to the sustained operation of TCUs.

Recommendation Provisions

(1) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994. — The Equity in Educational Land-Grant Status of 1994 (Public Law 103-382; 7 U.S.C. 301 Note) is amended in sections 533(b); 535(b) (1) and (c); and 536(c) by striking “2012” and inserting in lieu thereof “2018”.

(2) TRIBAL COLLEGE ESSENTIAL COMMUNITY FACILITIES PROGRAM. — Amend the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 (A) (25) (C)) by striking “2012” and inserting in lieu thereof “2018”.

B. Update the List of 1994 Institutions

Since the last reauthorization, the roster of TCUs has undergone several changes, including the addition of three schools and several name changes. The list of TCUs needs to be updated accordingly.

Recommended Provisions

(1) DEFINITION OF 1994 INSTITUTIONS. — Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) is amended — (A) in paragraph (5), by striking “Crownpoint

Institute of Technology” and inserting “Navajo Technical College”;

(B) in paragraph (10), by striking “Fort Belknap College” and inserting “Aaniiih Nakoda College”;

(C) in paragraph (26), by striking “Community”;

(D) by striking paragraph (27);

(E) by re-designating paragraphs (28) through (34) as paragraphs (27) through (33), respectively; and

(F) by adding at the end the following:

“(34) Keweenaw Bay Ojibwa Community College.

“(35) College of the Muscogee Nation.

C. Remove the Funding Ceiling on the Tribal Colleges Education Equity Grants (TCEG) Program intended to strengthen institutional capacity to deliver relevant formal education opportunities, the TCEG program provides funding to enhance education for American Indians in the food and agricultural sciences. The program currently has a ceiling of \$100,000 per TCU, which in many cases has been an inadequate amount. We request that this ceiling be removed.

Recommended Provisions

(1) EQUITY GRANTS AUTHORIZATION CAP. — Section 534(a)(1) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) is amended by striking “an amount equal to —” and all that follows through the end of subparagraph (B) and inserting “such sums as are necessary to carry out this section.”

D. Change the Formula for Distributing the Annual Interest Yield of the 1994 Institutions Endowment
Currently, the statutory formula is based on an institution’s Indian student count, which includes only those students who are enrolled in a federally recognized tribe or who are the biological child of an enrolled tribal member. However, this program benefits both Indian and non-Indian students and community members. Therefore, all students, and not just the members/children of members of federally recognized tribes, should be counted for distributing the annual interest yield among the eligible 1994 institutions.

Recommended Provisions

(1) ENDOWMENT FOR 1994 INSTITUTIONS. — Section 533 (c)(4)(A) of the Equity in Educational Land-Grant Status of 1994 (7 U.S.C. 301 note; Public Law 103-382) is amended by striking “Indian student count” and all that follows through the end of the subparagraph and inserting “full-time equivalent of all students.”

E. Expand the Pool of Qualified Partners for 1994 Research Grants For TCUs to apply for full funding for the Tribal College Research Grants Program (TCRGP), the initial authorizing legislation requires a partnership with 1862 or 1890 land grant institutions that are authorized under the original and amended 1862 legislation. Under the Cooperative Forestry Act of 1962 (known as McIntyre-Stennis), there are some McIntyre-Stennis designated forestry schools eligible for land grant funding that are located at non-land grant institutions. The 1994 institutions have not yet submitted a grant proposal that includes a partnership with a non-land grant McIntyre-Stennis designated forestry school; however, it appears that a strict interpretation of the TCRGP RFA could result in disqualification of a proposal that includes such a partnership. It may also be in the best interests of the 1994 institutions to foster research relationships with federal research installations (e.g. ARS Research Centers), and non-land grant institutions, and the TCRGP is often TCUs’ only avenue to expand research relationships.

Recommended Provisions

(1) RESEARCH GRANTS. — Section 536 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) is amended in subsection (b) by striking “at least 1 other land-grant college or university (exclusive of another 1994 Institution)” and inserting “the Agricultural Research Service of the U.S. Department of Agriculture or with at least 1 other land-grant college or university (exclusive of another 1994 Institution), non land-grant College of Agriculture (as defined in section 1404(14) of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)), or cooperating forestry school (as defined in

section 1404(5) of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3130)).”

F. Provide Agriculture and Food Sciences Facilities and Equipment at 1994 Land-Grant Institutions, Consistent with Existing Programs for Non-Tribal Institutions

Nearly all the remaining tribal land in North America is forest or agricultural land. In fact, of the 72.8 million acres that comprise Indian reservations, more than 75 percent are agricultural and forestry holdings. Yet, the 1994s are the only land-grant institutions without this type of program, which is essential for conducting up-to-date research and developing strong agriculture and natural resource workforces. The proposed program is like respective long-standing programs for the 1890, District of Columbia, and Insular Area Land-Grant Institutions.

Recommended Provisions

The Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) is amended by inserting the following new section at the end thereof:

SEC. 537. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT 1994 LAND-GRANT INSTITUTIONS.

(a) PURPOSE. — It is the intent of Congress to assist 1994 land-grant institutions in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

(b) METHOD OF AWARDED GRANTS. — Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary determines necessary to carry out the purposes of this section.

(c) REGULATIONS. — The Secretary may promulgate such rules and regulations as the Secretary considers to be necessary to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS. — There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2013 through 2018.”³⁵

The Research Title is the portion of the Farm Bill which holds the greatest areas of promise for improving tribal food systems.

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Tribal College research and education programs need a considerable funding increase to meet the growing needs of tribal food systems and food producers.

Research Title Funding Mechanisms

The competitive and formula funding mechanisms within the Title can provide much-needed research and development, critical infrastructure development, education, and extension of knowledge. But assumptions about the funding

systems have outlived their usefulness.

TCU Eligibility for all NIFA Funding

It is not acceptable that TCUs are not eligible for all USDA-NIFA funding authorities. FRTEP agents are not present among enough tribes, and they are not provided even the minimum level of funding to accomplish their work.

Additional Resources for Tribal College Extension Programs

- Tribal College extension programs receive too little funding to be as effective as they need to be. Tribal College research and education programs need a considerable funding increase to meet the growing needs of tribal food systems and food producers.
- Extension programs funded at 1862 institutions are not required to provide services to tribal food systems. Educational scholarships, internships, and critical needs are not being met. The growth of Native food systems requires the improvement of access and parity within the Research Title.
- A comprehensive study to explore the potential ability of 1862 land grant institutions to share administrative functions, classroom and faculty resources, and other related support mechanisms.

Tribal Set-Aside, Preference, and Funding at NIFA

- Providing tribal set-asides and preferences within all NIFA funding authorities while retaining the competitive nature of the funding is necessary to continue building capacity and strength.
- The agricultural legal funding authority contained in the 2014 Farm Bill must be amended to ensure that competition for the funds occurs and that there is a set-aside of the funding available to be provided to organizations and entities that have a proven specialty and primary focus on Indian law issues, as those issues intersect with food and agriculture law.
- NIFA funding authorities must focus a portion of their work on building knowledge and capacity in business development unique to tribal lands which must be approached separately due to the unique complexities in land use, law, regulatory burdens and related issues. Business training and the development of solid business planning tools are necessary. This funding is best focused around risk management education programs and the funding authorities that allow funding for business development.
- Tribal governments and tribal organizations should all be allowed full access to all nutrition education programs at NIFA, including SNAP-Ed and all research programs related to building knowledge in nutrition, health, obesity, and diabetes prevention.
- Small Business Innovation Research projects funded through NIFA should include a set-aside for tribal projects leading for commercialization of food products or food systems innovations.

Sustainable Agriculture Research and Education Program

If the Sustainable Agriculture Research and Education Program is reauthorized, it should include a set-aside for tribal sustainable agriculture project funding.

Agricultural Research Service Projects on Traditional Ecological Knowledge

The Agricultural Research Service must launch and support a significant number of research projects that focus on the important and increasing role that traditional knowledge plays in the environmental and natural resource and ecological arenas as well as the food science, nutrition, and health arenas.

Multi-Tribal Funding for Research Title Programs

A separate funding authority like the Sun Grant or Sea Grant authorities should be developed that allow multi-tribal, multi-state, and consortium approaches to meeting the research, education, and extension needs of Indian Country.

Native Youth Grants

Grants for youth organizations must include the provision of grants for youth organizations in Indian Country that focus on developing food and agriculture leadership and scientific knowledge programs.

TCU Center of Excellence

The Centers of Excellence approach to funding should be encouraged, allowed and included in the next Farm Bill Research Title, if desired by TCUs.



TITLE VII: FORESTRY



The 2002 Farm Bill created the first Forestry Title. The Agriculture Committees have jurisdiction of the U.S. Forest Service, which is part of USDA, but the Department of the Interior has jurisdiction of most federal land and forestry programs. The Forestry Title is a small part of the Farm Bill, but other forestry programs appear in other titles, especially in the Conservation Title. While the Forestry Title is clearly not the oldest or largest title to the Farm Bill, it is important to many tribes whose lands and communities are interdependent with the Forest Service lands. Natural Resources Conservation Service and the U.S. Forest Service are sister agencies within the Environment and Natural Resources mission area of USDA.

In the 2014 Farm Bill, the Tribal Watershed Forestry Assistance Program, the Forest Land Enhancement Program, and the Watershed Forestry Assistance Program were repealed. The U.S. Forest Service decision making and appeals process was changed: if an action was part of a forest planning process it became a non-appealable and was not subject to National Environmental Policy Act (NEPA) planning processes. As implemented over time, this provision could have impact on tribes and should be watched closely. The cooperative forestry assistance program with states was reauthorized and the rural revitalization programs contained within the Forest Service were also extended. The Healthy Forests Reserve Program was extended and included tribal-specific provisions. In Section 8 of the Manager's Report, a clarification of the definition of "Indian lands" was included as was discussion about the impact of increased participation in the Natural Resources Conservation Service managed **Healthy Forests Reserve Program**. The 2014 Farm Bill increased appropriations authorization for the Healthy Forests Reserve Program and allows the funds to be used to provide technical assistance, management, and enforcement services for lands enrolled in the program. The language also defines acreage owned by Indian tribes as being eligible for participation in the program.

The bill also included language requiring USDA, at the request of a state governor, to designate treatment areas on at least one national forest in each state, if such lands are experiencing declining forest health and disease infestation and authorized up to \$200 million to carry out these forest land treatments. The Title also contains language related to forest roads, signifying that forest roads are not to be considered point sources of pollution; this provision gives legislative weight to a U.S. Supreme Court ruling and the Environmental Protection Agency's position that forest roads are not subject to regulation under the Clean Water Act. It created a program that allows a fee to be assessed on home-grown and imported Christmas trees. The funds from the assessment will be used to market and promote Christmas trees grown on U.S. soil.

Forest products may qualify as "biobased" products for the purposes of federal law. The 2008 Farm Bill allowed products containing as little as 25 percent biobased content to qualify for incentives under the BioPreferred Program, but excluded some traditional wood and forest products with up to 100 percent biobased content.

Section 8301 of the Forestry Title called on the Forest Service to revise its current strategic plan for forest inventory and require its analysis to include an urban forest. The bill permanently authorized **Stewardship Contracting** and added fire liability provisions to stewardship contracts and agreements. The International Forestry program was reauthorized through Fiscal Year 2018. The **Forest Inventory and Analysis** program was amended to include interior Alaska in the program, implementing an annualized inventory of trees in urban settings, and took many other measures to strengthen forest data collection, analysis, strategic direction, and reporting on changes in land cover and use.

The bill also allowed the "**Good Neighbor Authority**" to become available in states with

National Forest System or Bureau of Land Management (BLM) lands. Piloted in Utah and Colorado, this authority allows the Forest Service or BLM to enter into agreements with state foresters to carry out forest, rangeland and watershed restoration, management, and protection services on National Forest Service lands. The bill allows this authority to include projects involving commercial harvesting or other mechanical vegetative treatments but excludes other activities such as road construction. The bill also establishes a USDA Forest Service **Large Air Tanker and Aerial Asset Firefighting Lease Pilot Program** and clarifies authorities to facilitate a national, coordinated response to wildland fire.

WHY SHOULD INDIAN COUNTRY CARE?

Since it was established in 1976 as a nonprofit tribal consortium, the Intertribal Timber Council (ITC) has been at the forefront of forestry issues in Indian Country. ITC's vision is that "Indigenous stewardship of natural resources supports thriving, fully empowered communities that share success in exercising sovereign decision-making, create sustainable economies and implement strategies that perpetuate forest health for generations to come." They also state: "Forest resources are vital to the economic and social welfare of many Indian nations and [N]ative Alaskan Corporations. The management of these valuable and renewable natural resources not only provides income and employment opportunities for our people, but also affects our lives in many other ways. The harmony of man, trees, and other vegetation, soil, water and wildlife which collectively comprise the forest community influence our very emotional and spiritual well-being."³⁶

Indian forests and woodlands comprise 18.6 million acres, or one third, of the total 57 million acres of Indian land held and managed in trust by the federal government. Forests are one of the principal renewable resources available to tribes, and more than 300 Indian tribes have forest resources. Across

the country, Indian forests provide more than \$40 million in annual tribal governmental revenues, 19,000 jobs in and around tribal communities, as well as wildlife habitat and sources of food and medicine for Indian people. The proper health and management of Indian forests are crucial to rural economies across America.

Many American Indian and Alaska Native tribes have long-standing and deeply spiritual relationships with the forests within which they lived for centuries. Their deep engagement with forests of North America was fundamentally changed upon European contact when the relationships they had with the land, including forests, became severed. The United States Forest Service now maintains National Forests that co-exist within and among the boundaries of current and historic tribal homelands.

EXAMPLES OF OPPORTUNITIES IN THE FORESTRY TITLE

Since many tribes either live within the jurisdiction of federal agencies with forest responsibilities (primarily the U.S. Forestry Service at USDA), or have trust and treaty rights resources located on federal forest lands, the intensely specific and expertise-dependent issues around forests require a specialized eye towards policy change.

ITC has put forward the following recommendations:

Tribal Forest Protection Act (TFPA)

The Tribal Forest Protection Act (TFPA) (Pub. L. No. 108-278), enacted in 2004, authorizes tribes to work on a priority basis with the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) on forest health projects on USFS and BLM lands adjacent to tribal forests to help protect tribal forests from threats from those USFS and BLM lands. The legislation passed both Chambers unanimously. But, in the over 13 years since its authorization, relatively few TFPA projects have been implemented, even

though, in recent years, the ITC and tribes have been working with the U.S. Forest Service to try to improve implementation. The disappointingly slow implementation of the TFPA continues to thwart the Act's intention, leaving tribal forests more vulnerable to catastrophic wildfire, disease and infestation from adjacent federal public lands.

To help overcome resistance to TFPA implementation, four bills in the 114th Congress included provisions to add time lines to USFS and BLM consideration of TFPA project requests and to allow greater direct tribal participation in TFPA project implementation. The four 114th Congress bills were: the House-passed Resilient Federal Forests Act (H.R. 2647, Rep. Westerman); the very similar Senate Emergency Wildfire and Forest Management Act (S. 3085, Sen. Roberts, referred to the Senate Agriculture Committee); the Tribal Forestry Participation and Protection Act (S. 3014, Sen. Daines), which was approved by the Senate Indian Affairs Committee; and the House-passed version of S. 2012, the Energy Policy Modernization Act.

The ITC requests that the upcoming Farm Bill improve the TFPA by including the following:

- Include the TFPA streamlining provisions to improve the timelines for review and implementation of forest restoration projects requested by tribes (from the 114th Congress, see H.R. 2647 Section 301 (Westerman), S. 3085 Section 501 (Roberts), S. 3014 Section 2 (Daines), and S. 2012 House version Division B Section 701).
- Allow greater tribal participation in TFPA projects by authorizing, as a discretionary pilot program, the application of the Indian Self-Determination and Education Act (PL 93-638) contracting authority to TFPA projects on USFS or BLM lands (from the 114th Congress, see H.R. 2647 Section 303 (Westerman), S. 3085 Section 503 (Roberts), S. 3014 Section 4 (Daines), and S. 2012 House version Division B Section 703).

The legislative text for both the above provisions is virtually identical in the four bills. To ease review and selection, the ITC suggests that the legislative text from H.R. 2642 (Westerman) Sections 301 and 303 be adopted into the new Farm Bill.

Cooperative Management of Adjacent Federal Lands

Tribes continue to have legal, historic and economic connections to adjacent federal forests. The ITC supports pilot authorization of tribes and the Bureau of Indian Affairs to conduct cooperative, discretionary forest restoration activities on U.S. Forest Service and BLM lands using existing regulations governing the management of Indian forests. Bicameral consideration of and support for such a program was demonstrated during the 114th Congress in the four bills in the above TFPA discussion.

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Many American Indian and Alaska Native tribes have long-standing and deeply spiritual relationships with the forests within which they lived for centuries.

The ITC requests that the Farm Bill contain pilot authorization similar to that found in Section 302 of the House-passed H.R. 2647 (Westerman, 114th Congress) and Section 3 of S. 3014 (Daines, 114th Congress), which was favorably ordered reported by the Senate Committee on Indian Affairs.

Workforce Development

There is a growing shortage of trained workers for the management and operation of Indian forests. The need to recruit, train, and retain a future forestry and fire workforce has been identified by an independent panel of scientists (Indian Forest Management Assessment Team) tasked by Congress to review the management of Indian forests every 10 years. This shortage of forest workers is already constraining the ability of Indian tribes and related federal agencies, such as the Bureau of Indian Affairs, to effectively manage and protect tribal forests and forest-related natural resources and to participate in broader landscape based forest management activities. The personnel shortage for Indian forestry is currently so severe that only half

the national tribal harvest (as described in approved sustainable management plans) can be generated.

The ITC requests that the Farm Bill authorize USDA to fund a Native American forestry workforce coordination and development program through an intertribal organization familiar with tribal forestry issues.

McIntire-Stennis Parity

As mentioned earlier in the Research Title, the McIntire-Stennis Act of 1962 (Pub. L. No. 87-788) dedicates funds to states to pursue forestry research at state colleges and universities and to help train the next generation of forest scientists and professionals. All 1862 land grant institutions were eligible for these funds when the Act was initially passed and the 1890 Historically Black Colleges and Universities were granted access in the 2008 Farm Bill. In Fiscal Year 2016, USDA NIFA made just under \$32 million available through McIntire-Stennis to land grant and public universities in the 50 states, Puerto Rico, Guam, and the Virgin Islands.

Despite the fact that tribal trust lands are included in the formula that allocates funding to the individual states, the 1994 Land Grant Tribal College and University institutions (TCUs) remain ineligible to receive research funding. The ITC believes that parity should be granted to TCUs with a bachelor's degree in forestry or higher, and that this would allow tribal colleges to perform tribally and state-relevant forestry research and develop a well-trained Native forestry workforce.

Fire Suppression Priorities

To the extent that the Farm Bill addresses federal wildfire suppression efforts, the ITC would like to work with the committees to ensure that Indian forests are properly prioritized in fire suppression activities and funding. Current priorities place protection of private structures above protection of tribal forest assets held, managed and protected by the U.S. as trustee. As a result, in the 2015 fire season, suppression crews were removed from wildfires on Indian trust forests in order to protect private structures. The fires on

Indian trust forests exploded, destroying hundreds of thousands of acres and millions of board feet of timber vitally important to tribal economies. The ITC believes that such priorities, allowing federally protected trust assets essential to tribal governments and communities to be sacrificed to protect private structures, need a review.

Anchor Forests

The ITC, member tribes, the U.S. Forest Service, and other forest resource stakeholders have recently completed a pilot study in Washington State and report on an "Anchor Forest" concept to foster landscape-scale forest collaboration and management projects intended to improve forest health while preserving local logging, milling and other critical infrastructure. Tribes in the Great Lakes states and Southwest have expressed interest in Anchor Forest projects in their own regions.

Below are recommended provisions from the 2013 NCAI recommendations, updated to reflect the current priorities of the ITC:

a) SEC. XXX. ANCHOR FOREST PILOT PROGRAM AUTHORITY.

(a) Findings.

(1) Economic benefits from harvest of wood products are an essential element of land stewardship needed to address forest health problems on federal lands and to sustain stewardship practices on private, tribal, and state forests across the landscape.

(2) Minimum levels of harvesting, manufacturing, processing, transportation and work force infrastructure must be identified, maintained and improved if objectives such as healthy forests, viable rural forest-dependent communities, ecosystem (environmental) services, and bioenergy development are to be achieved.

(3) Currently, harvesting and processing infrastructure is in a critical state of decline. Once these human and physical resources disappear, they will be very difficult to replace.

(4) Without access to markets for forest products, without the ability to prepare and implement management prescriptions, without a work force,

processing facilities, and the means to transport wood to markets, without the income generated from harvest to defray costs of forest health treatments at the scale required, forests are facing the prospect of increasing losses from insects, disease, wildfire, conversion and climate change.

(b) Purpose. The purposes of this section are to –

(1) develop and maintain sustainable healthy and productive working forests on the landscape,

(2) develop, preserve and strengthen the long-term jobs and other forest based infrastructure in rural timber-dependent communities,

(3) recognize, identify and foster the mutual benefits of healthy working forests on the landscape and the rural timber communities that provide the jobs, processing facilities and other infrastructure that contribute to the health and productivity of those forests,

(4) establish an Anchor Forests Pilot Program that

(A) identifies large landscape-based forest lands

(i) needing improvement or maintenance of the forest's health and productivity and

(ii) needing the development, improvement or preservation of forest management, harvesting, transportation, and processing infrastructure critical to improving and maintaining the forests' health and productivity,

(B) authorizes and supports unified or coordinated, flexible, and cohesive management of Forest across jurisdictional boundaries to enable the long-term efficient, and effective health treatments, provide ecosystem services, and reliable, sustainable production of forest products to timber dependent rural communities,

(C) authorizes and supports the development, maintenance, and improvement of the forest management and forest products processing infrastructure needed for forest health and productivity.

(c) Establishment of program. There is established an Anchor Forest Pilot Program to be implemented by the Secretary of the Interior and the Secretary of Agriculture, in consultation and coordination with appropriate Indian tribes and in coordination with appropriate intertribal organizations.

(d) Number of pilot projects, duration. Anchor Forest Pilot Program implementation is to consist of twelve

pilot projects, of which not less than three and not more than five pilot projects are to have Indian forest land as a principal land component, with each project to continue for up to fifteen years.

(e) Components of each pilot project. Each Anchor Forest Pilot Program pilot project consists of the following elements:

(1) Anchor Forest. Each pilot project will have a designated Anchor Forest land base identified from National Forest, and/or BLM forest lands and, subject to voluntary application in a manner the appropriate Secretary shall prescribe, tribal, state and private forest land that –

(A) is committed to long-term sustainable management and production of forest materials to supply Anchor Forest Infrastructure as described in (c)(2), and

(B) collectively is of such size, proximity and composition to assure a sustainable amount of forest material to support economically viable operation of the Anchor Forest Infrastructure described in (c)(2) and maintain the health and productivity of the Anchor Forest.

(2) Anchor Forest Infrastructure. Each pilot project will identify its Anchor Forest Infrastructure, upon which the Anchor Forest principally depends for the conduct of its active management operations, and which can include –

(A) a local labor force capable of performing forest planning, analysis, and management activities on a landscape scale,

(B) transportation systems for, among other activities, access to the forest, removal of forest materials to processing locations, and distribution of processed forest materials to markets, and

(C) forest material processing and manufacturing facilities.

(f) Collaboration. In each Anchor Forest Pilot Program pilot project, personnel and officials from the federal agencies, Indian tribes, state, and private forest lands included in the pilot project are to coordinate and collaborate on the development and realization of common vision, goals, and objectives for the pilot project, supported by a single long-term management plan or uniform long-term management plans, inventory systems, designated professional staff, and geographic information systems.

(g) Assistance. The Secretary of Agriculture and the Secretary of the Interior are authorized –

(1) From funds appropriated for the programs and activities of, respectively, the Department of Agriculture and the Department of the Interior to provide support for any Anchor Forest management or operational activity and for the development, support, operation, maintenance, and improvement of Anchor Forest Infrastructure. Such support may be in the form of grants, loans, and loan guarantees.

(2) To provide directly or through other parties' technical assistance to participating Indian tribes, states, private land owners, or other participating parties for activities related to Anchor Forest and Anchor Forest Infrastructure.

(3) To enter stewardship contracts and other agreements and contracts, and, notwithstanding any law, to fashion such other arrangements or management directives as needed, to foster and support sustainable Anchor Forests and Anchor Forest Infrastructure.

(h) Regulations. The Secretary of Agriculture and the Secretary of the Interior, in collaboration with likely affected parties, shall develop and promulgate regulations implementing this Section within 180 days of enactment.

G. Change the name of USFS State and Private Forestry to "Tribal, State, and Private Forestry"

It is suggested that the Farm Bill direct the name change of U.S. Forest Service "State and Private Forestry" (S&PF) to "Tribal, State and Private Forestry." S&PF, charged with working with nonfederal entities, has included the Office of Tribal Relations since its inception in 2003. The name change is needed to honor government-to-government relationships and to acknowledge the USFS's trust responsibilities and increasingly important engagement with tribal governments. A legislative change is needed because the USFS has been reluctant to make the change on its own volition.

Recommended Provision

a) SEC. XXX. RENAMING U.S. FOREST SERVICE MISSION AREA TO "TRIBAL, STATE AND PRIVATE FORESTRY".

The organizational portion of the United States

Forest Service described as a Program Mission Area now named "State and Private Forestry" is hereby renamed "Tribal, State and Private Forestry".

I. Congress should protect Indian sacred places in National Forest System.

Lands found within the National Forest System were formerly ancestral lands of Indian tribes. The historical, religious, spiritual, cultural, and traditional connections of Indian tribes to these lands have not been extinguished despite changes in title. The United States has a fiduciary and moral responsibility to preserve and protect Indian sacred places located on federal lands.

The spirit and direction of the Nation are founded upon and reflected in its historic heritage. The historical and cultural foundations of the Nation should be preserved as a living part of our cultural and community fabric. Indian sacred places are important not only to Indians and Indian tribes but also to the Nation so that its heritage is not lost or substantially altered. The preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, religious, educational, aesthetic, and inspirational benefits will be maintained and enriched for future generations of Americans.

Recommended Provisions

SUBTITLE E – Miscellaneous Provisions- [INSERT NEW SECTION 8403:]

"SECTION 8403 – Indian Sacred Places

a) DEFINITIONS – In this subtitle:

(1) INDIAN – The term 'Indian' means an individual who is a member of an Indian tribe.

(2) INDIAN TRIBE – The term 'Indian tribe' means any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

(3) NATIONAL FOREST SYSTEM – The term 'National Forest System' has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(4) INDIAN SACRED PLACE – The term ‘Indian sacred place’ means an area or location, including geological features, landscapes, bodies of water, traditional cultural properties, and sites, in the National Forest System that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as having long-established significance in Indian religious, ceremonial, or traditional cultural practices; provided that the Indian tribe or appropriately authoritative representative of an Indian religion has informed the Secretary of the existence of such as a place.”

b) Protection of Indian Sacred Places

(1) The Secretary shall protect Indian sacred places in the National Forest System by preserving their physical integrity and ensuring no adverse impacts to them.

(2) The Secretary shall engage in government-to-government consultations with Indian tribes to ensure proper protection of Indian sacred places.

(2) The Secretary shall ensure access for Indians and Indian tribes to Indian sacred places in the National Forest System.

(3) The Secretary shall not dispose of or convey National Forest System land on which an Indian sacred place is located unless the Secretary has offered to transfer this land first without cost to the Indian

tribe whose sacred place it is.

c) Confidentiality – Notwithstanding any other provision in law, the Secretary shall not disclose information provided by Indian tribes or Indians about Indian sacred places to others to protect these places.³⁷

Additional opportunities for forestry initiatives include:

- Ensuring that the interdepartmental efforts to protect Indian sacred places are maintained and strengthened under future administrations, and that the responsibilities of USDA and other federal departments to consult with tribes on an ongoing basis concerning sacred places continually occurs.
- USDA should require that tribal representation continues with all local, regional, and national planning and implementation bodies which serve in advisory capacities to USDA and the U.S. Forest Service.
- Create parity between Forest Service management agreement language and NRCS determination of land control language, which preserves tribal sovereignty and rights to gather/manage traditional plant stands and enhances opportunities for tribes to leverage EQIP assistance on traditional lands under Forest Service jurisdiction.



TITLE IX: ENERGY



The Energy Title made its first appearance in the 2002 Farm Bill. Since that time, its importance depends largely on how much of a focus the current Congress or Administration has on the nation's energy supplies and resources. The Title generally authorizes programs that encourage investments in alternative energy technology, production of renewable biomass for biofuels, education, research, financial assistance, and the manufacture and production of renewable energy.

Regardless of who is in office, energy use in agriculture is a serious and increasingly important issue. Hundreds of years ago, agriculture used energy from natural resources and processes. But as agriculture has changed and modernized over time, so has its energy consumption. Agricultural energy use now can be found in fertilizer production and use; water consumption and use; farm equipment; processing; packaging; distribution; and transportation. Agricultural water use alone makes up a significant financial investment for producers and moving water across production landscapes can be energy-intensive.

The need for renewable energy, increased sources of domestic energy, and the impacts that energy access disruptions have in sensitive agriculture markets call for the inclusion of an Energy Title in the Farm Bill. Interest in the ethanol industry (the use of crops for energy use) has grown over time, and biofuels development, energy efficiency, and carbon capture continue to generate high levels of interest even in the years when agricultural energy policies wane.

Some mandatory funds have been used in the Energy Title since its inception, but today the programs in the Title are subject to annual appropriations, making them more insecure over time. Forest products are included in bioenergy programs such as BioPreferred and other biobased programs. **The Rural Energy for America Program (REAP)** was extended and amended in the 2014 Farm Bill; biobased market programs

were extended and amended, and the **Biorefinery Assistance Program** was included in the bill. The **Biomass Research and Development Initiative** was extended and amended, and the **Feedstock Flexibility Program** for biomass producers was also extended and amended. The **Biomass Crop Assistance Program (BCAP)** was extended and amended with \$25 million in mandatory funding authorized annually. This program provides financial assistance to owners and operators of agricultural and non-industrial private forest land who wish to cultivate biomass feedstock for sale to energy producers. Provisions in the 2014 Farm Bill allowed expiring CRP acres to be enrolled in the BCAP program and included as "eligible material" collected or harvested from National Forest System and BLM lands in addition to non-federal lands. Eligible materials under the **Biomass Crop Assistance Program (BCAP)** now include material collected or harvested directly from the National Forest System, Bureau of Land Management land, non-federal land, and tribal lands in a manner that is consistent with Conservation Stewardship Program plans. Eligible materials also include woody material that is a byproduct of preventative treatment on non-contract acreage or harvested from federal land in accordance with the Healthy Forests Restoration Act of 2003. BCAP now allows enrollment of land under Conservation Reserve Program (CRP) or Agricultural Conservation Easement Program contracts that are set to expire in any given fiscal year.

In the 2014 Farm Bill, the biorefinery program was renamed the **Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program**. It will continue to offer loan guarantees for renewable energy projects such as the construction and retrofitting of refineries to develop and produce advanced biofuels. The new bill expands the program to assist the promotion of renewable chemicals and biobased manufacturing production facilities. Funding for this program is discretionary, with \$75 million in funds set aside through 2018.

REAP emerged with a permanent funding baseline, meaning that even if Congress fails to reauthorize the Farm Bill again in five years, it will continue with \$50 million in mandatory funding per year. REAP helps agriculture producers and business owners in rural areas invest in energy efficiency and renewable energy. The program was amended to include a three-tiered loan and grant program.

The **Biobased Markets Program** was amended to include forest products and allows assistance to landowners to determine whether products are eligible for the “USDA Certified Biobased Product” label. Community Wood Energy Program, which allows small grants to provide seed capital for biomass consumer cooperatives to build stronger markets for biomass heating products, was reauthorized through 2018. Additional programs were retained, and some were reconfigured in the bill. This is likely going to be the case as future Congresses reexamine not only agriculture’s dependency on energy (and what source of energy), but also the nation’s energy future.

WHY SHOULD INDIAN COUNTRY CARE?

Energy projects in Indian Country hold immense promise for diversifying tribal economies while bringing much-needed energy systems to remote and isolated communities. Growing crops for energy purposes or converting natural resources on tribal lands to bio-energy projects is an important tool for economic development and self-sufficiency. In addition, if bio-energy projects could focus on the needs of remote tribal food producers and embrace the importance of research and development of products and systems on tribal lands, important tribal goals can be met.

EXAMPLES OF OPPORTUNITIES IN THE ENERGY TITLE

In 2013, NCAI recommendations for change in the Energy Title included:

This title supports the development of farm and community renewable energy systems through various programs, grants, and procurement assistance initiatives. Provisions covered the

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Energy projects in Indian Country hold immense promise for diversifying tribal economies while bringing much-needed energy systems to remote and isolated communities.

production, marketing, and processing of biofuel feedstocks; expanded research, education, and demonstration programs for advanced biofuels; USDA coordination of federal bio-based energy efforts; grants for procurement of bio-based products to support development of bio refineries; assistance for eligible farmers, ranchers, and rural small businesses in purchasing renewable energy systems; and use education

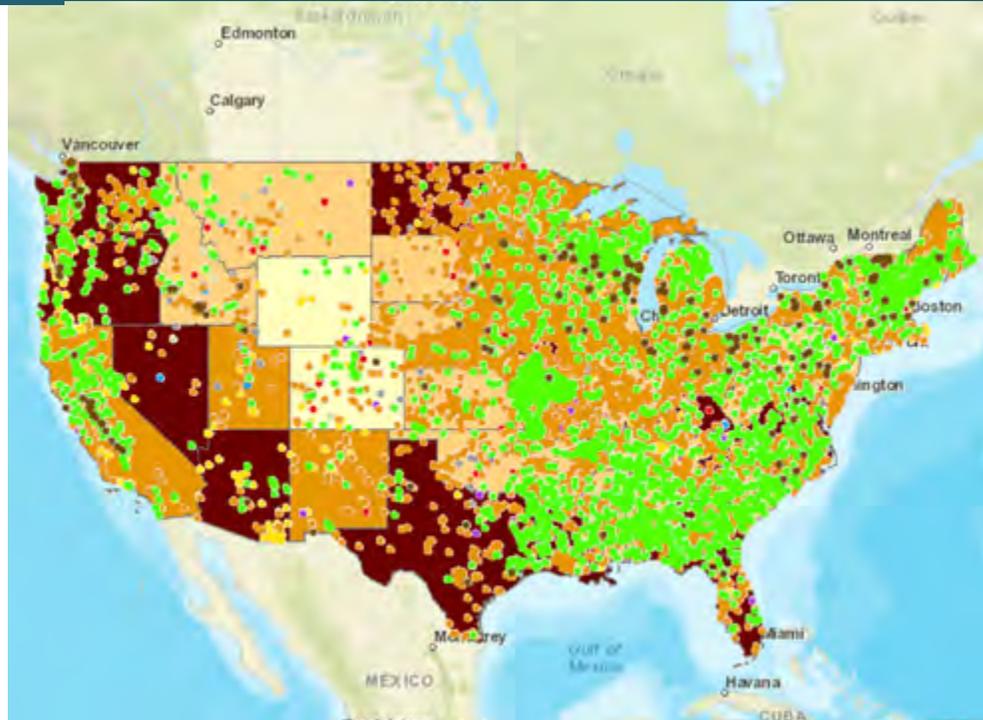
programs, among other programs. The title continues and expands funding for federal agency procurement of bio-based products, construction and development of advanced biofuel refineries, biomass research and development, and biodiesel education. New programs encourage renewable energy use by bio refineries, renewable energy systems and energy efficiency improvements, rural energy self-sufficiency, development of next generation feedstocks, and use of forest and woody biomass for energy production.

Tribal Perspective:

Indian Country lays claim to countless acres of renewable energy resources. However, to develop and own renewable projects themselves, tribes and tribal entities do not now have funded or authorized incentive programs or tools to competitively finance renewable energy projects, nor are they able to efficiently utilize the existing federal incentives, including tax credits which traditionally finance energy development in the private sector.

ENERGY INVESTMENT MAP

INVESTMENT BY STATE (\$ MILLIONS)



Source: U.S. Department of Agriculture

1. Congress should add a new section to Title IX that would allocate funding for tribal Energy Bio-Based Energy Development Grants

A Tribal Energy Bio-Based Energy Development Grant would operate much like a grant-in lieu of tax credit and would be specifically available to Indian tribal governments and wholly owned tribal entities and operate similarly to the existing Renewable Energy Production Incentive (REPI) Program which is tied to the base and escalation authorities of the authorized production tax credit (PTC) for wind. The law should also clarify eligibility of tribally chartered and federally chartered tribal corporations for Rural Development Programs, including grants and loan programs and any technical assistance programs available. The Department of Agriculture has made a policy statement that it will recognize federally

chartered Section 17 Tribal Corporations as eligible entities for the RD programs. Legislation should codify this as well as clarifying that tribally chartered tribal corporations are likewise eligible.³⁸

No additional provisions are necessary beyond those advocated by NCAI. Every effort should be made to ensure that all energy-related programs created by future Farm Bills provide for several key issues: (1) tribal production of bioenergy crops is not prevented under the Farm Bill; (2) tribal interests in alternative energy projects are protected and supported by future Farm Bills; (3) tribal biobased products are included in any applicable efforts that increase such products in the marketplace; and (4) tribally chartered entities are included in all grant and technical assistance programs.

TITLE X: HORTICULTURE



First appearing in the 2008 Farm Bill, the Horticulture Title supports specialty crop and organic farming operations with provisions that provide trade promotion and risk management assistance. Funding for pest and disease management and disaster prevention was specifically increased in the 2014 Farm Bill. According to USDA, sales of specialty crops account for nearly one-third of U.S. crop cash receipts and one-fifth of U.S. agricultural exports.

In the 2014 Farm Bill, farmer’s market and local foods promotion programs were extended and expanded, providing grants to farm-to-institution, food hubs, and local/regional food aggregation, storage, distribution and similar activities. The bill authorized \$30 million in mandatory annual funding, with 50 percent going to direct marketing and 50 percent going to non-direct marketing of regional food enterprise activities and supply chain activities. The bill required the Secretary to issue regulations concerning bulk shipments of apples to Canada. It also expanded the fresh fruit and vegetable program for schools and created a pilot to evaluate inclusion of canned, frozen, or dried fruits and vegetables in the program. The funding also included initiatives for technical assistance for specialty crops in the Trade Title that would address sanitary, phytosanitary, and technical barriers to specialty crop exports.

In the Research Title, competitive grants were awarded with the Specialty Crop Research Initiative to focus on scientific research and activities, technical assistance, and development to combat citrus diseases and pests (Emergency Citrus Disease Research and Extension Program).

In addition, pilot programs to explore the procurement of unprocessed fruits and vegetables and canned, frozen, or dried fruits and vegetables

were allowed in a small number of states’ school lunch programs to evaluate impacts on school participation in the program. These programs examine geographic preference and use of multiple suppliers to facilitate more local fresh fruit and vegetable offerings.

The bill also reauthorized the **Tree Assistance Program** (TAP) with mandatory funding for disaster assistance for tree crops, vines, and bushes in designated disaster areas. Assistance may cover up to 65 percent of the cost of replacing trees and up to 50 percent of the cost of salvaging damaged trees or preparing land for replanting. The **National Clean Plant Network** was created and funded to produce clean plant material (free of

pests and diseases) and maintain blocks of pathogen-tested plant material in sites throughout the United States for pathogen diagnosis and elimination.

Organic agriculture was furthered in the 2014 Farm Bill through actions in the conservation, research, horticulture, and crop insurance titles. Provisions were put in place to expand cost-share

assistance for organic certification, maintain the organic research initiative, and improve organic crop insurance and marketing. Several new provisions were added to improve the enforcement of the USDA’s **National Organic Program** that regulates organic standards and certification. Authorized funding for the program increased to \$15 million annually.

USDA’s Risk Management Agency (RMA) is required to expand organic price elections for producers insuring crops by 2015. Producers choose a percentage of the maximum price set by RMA for their commodity, which is used to determine the value of insurance coverage. The **Organic Agriculture Research and Extension Initiative’s** (OREI) total mandatory funding is set

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Many of the traditional crops that are so important to the cultural and spiritual lives of Indigenous people are “produce” or “specialty crops” under federal law.



at \$100 million. By most studies, the demand for organic products in the U.S. is going to continue to exceed supply. The 2014 Farm Bill boosted funding for research on the organic sector and organic certification cost-share programs to attract more producers to the organic sector. Organic production is eligible for payments under the EQIP program in the Conservation Title. Other amendments in programs are designed to improve marketing and data collection for organic products.

WHY SHOULD INDIAN COUNTRY CARE?

Horticulture crops are extremely important to tribes for many reasons. First, and most importantly, many of the traditional crops that are so important to the cultural and spiritual lives of Indigenous people are “produce” or “specialty crops” under federal law. Second, there are many

individual and community acts of food sovereignty that are occurring throughout Indian Country. These food sovereignty activities are critical to improving the health and wellness of tribal members. Indian Country health data is among the worst in the country. Chronic diseases, stroke, cancer, heart disease, obesity, and diabetes are at very high rates throughout Indian Country. One of the important ways to address these health issues is to increase the amount of fresh fruits and vegetables available in our communities and to make those foods accessible locally and regionally. Third, as more of these foods are grown and raised in Indian Country, the surpluses are already finding their way into local and regional markets, and many tribes are improving their economic development alternatives by expanding into diverse food production systems. Ensuring that we understand and gain access to the programs authorized in the Horticulture Title is very important and will remain important to tribes for years to come.

EXAMPLES OF OPPORTUNITIES IN THE HORTICULTURE TITLE

In 2013, NCAI provided the following recommendations for changes within the Horticulture Title:

The Horticulture Title contains various provisions designed to support the production of specialty crops – fruits, vegetables, tree nuts, floriculture and ornamental products – in the United States; the support of food safety research in these crops; promotion of farmer’s markets; organic production and marketing standards; and plant disease and protection. Additionally, it aids certified organic agricultural production.

Tribal Perspective:

Although most producers in Indian Country are in the livestock sector, there are a growing number of tribal farms (either government or individual-owned) focusing on the fruit, vegetable and related specialty crop areas. Additionally, the number of farmer’s markets in Indian Country is on the rise. Ensuring that these new- and beginning-farm and diversified farming operations are given a chance to succeed will build rural economic stability and improve the availability of local/regional foods for tribal communities focusing on improving their nutrition and health.³⁹

Additional opportunities in the Horticulture Title include:

Tribal Consultation on Fruit and Vegetable Programs

The USDA agencies primarily responsible for specialty crops must be required to engage in ongoing tribal consultation concerning the impact and growth of the fruit and vegetable sector within Indian Country and the

opportunities and challenges that can be positively impacted by changes in USDA regulations.

Tribal Inclusion in the Specialty Crop Block Grant Program

The Specialty Crop Block Grant Program must be changed to ensure that tribal departments of food and agriculture are eligible for funding under this important program and that tribal projects are not required to go through state funding mechanisms at state departments of agriculture to receive support. There are very few tribal projects that currently receive support and, at the same time, the number of tribal departments of agriculture is likely to continue to grow over time. This program

is critical to the growth of this sector in Indian Country, and tribal sovereignty must be respected by allowing these new departments to receive funding parity.

Honey and Beekeeping

Any reports on honey or beekeeping should include the growth and increase in beekeeping and honey operations in Indian Country.

Tribal Farmer’s Markets

Farmer’s market and local food promotion programs grant funding authorities should require that a minimum of 10 percent of available funding goes to tribal farmer’s markets and local food promotion activities.

Support for Tribal Organic Producers

USDA should launch a special program designed to increase technical assistance to those within Indian Country who are interested and prepared to transition to organic production.

Increased Support for FSMA Outreach

Food safety education initiatives discussed in the Miscellaneous Title, below, should also be



USDA should work with tribal governments and tribal organizations to put in place programs that are designed to protect the integrity of Native food products from fraudulent versions of their foods in the marketplace.

considered within the Specialty Crop Title. The impact of Food Safety Modernization Act of 2011 (FSMA) implementation on tribal producers is different from the impact on any other producer due to the unique land base and tribal production systems in Indian Country. At present, there is not enough funding to adequately reach tribal producers to ensure their knowledge of and compliance with FSMA requirements. USDA should take steps either with U.S. Food and Drug Administration or alone to ensure that tribes are adequately receiving technical assistance on this important new law affecting our food systems.

Protecting Native Foods in the Marketplace

USDA should work with tribal governments and tribal organizations to put in place programs that are designed to protect the integrity of Native food products from fraudulent versions of their foods in the marketplace. This is already occurring, and the federal trust relationship requires that USDA work

with tribal food companies and food producers to ensure that market regulatory mechanisms can be used to augment the ability of tribes to protect their unique food products. This can be done through geographic intellectual property mechanisms put in place by tribal governments to protect unique tribal foods. This should be fully supported and recognized by USDA.

Protect Tribal Seeds and Traditional Foods

USDA should take steps to ensure that tribal seeds are given the maximum protection available under federal law and not allowed to be accessed for commercialized purposes without the consent of tribal governments. Seeds of traditional foods are among the most sacred items to Indigenous peoples and the protection of those seeds, not only as food sources but as important cultural systems, must be required. Tribal governments are entitled to tribal consultation with USDA to determine the best means by which their seeds may be protected.



TITLE XI: CROP INSURANCE



Agricultural risk management is critical for producers. Food production is inherently risky not only from the production standpoint, but also from legal, financial, marketing, labor, and regulatory standpoints. Managing these risks takes a lifetime of attention, focus, dedication, and assistance. For decades, Congress approached risk management in agriculture production through a few federally authorized programs, but primarily utilized targeted bills passed when disasters struck. After years of differing levels of engagement, Congress began moving toward a private sector-focused insurance risk management program and away from disaster-driven approaches to assisting producers.

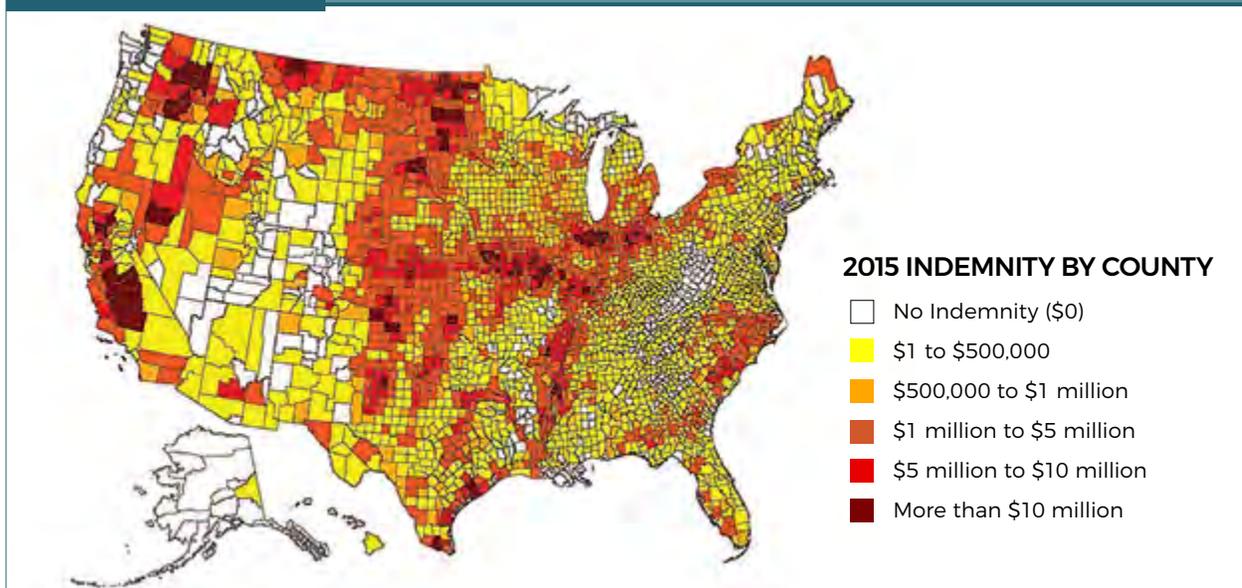
The Agricultural Risk Protection Act of 2000 established the Federal Crop Insurance Corporation (FCIC) Board. The Risk Management Agency (RMA) is the primary agency within USDA that oversees the Department’s risk management programs. The FCIC board manages the risk product portfolio and provides guidance under the general supervision of the Secretary of Agriculture. The board is responsible for maintaining and creating new programs for risk management and risk mitigation in agriculture. The board delegates the broad authorities to approve new risk insurance policies, new insurance plans, and insurance plan modifications to the RMA Administrator. At

present, the board consists of the Under Secretary of USDA Farm and Foreign Agriculture Service, the USDA Chief Economist, the FCIC Manager (RMA Administrator), four farmers, an individual involved in insurance, and an individual knowledgeable of reinsurance and regulation of insurance.

The FCIC Board conducts research and studies concerning the actuarial soundness of an insurance policy before offering it. Insurance policies offered are normally piloted in regions or with certain crops before being released for purchase by producers. Insurance for crop and livestock risks continues to grow in acceptance, and there are now more than 100 insurance products in the program. Every subsequent Farm Bill has continued to increase the scope and range of the program. While there are still many improvements to be accomplished, the ability of producers to at least consider the coverage of their crops and livestock under applicable programs is an important option that can in many cases mean the difference between staying in business or leaving farming and ranching.

The **Standard Reinsurance Agreement** and the **Livestock Price Reinsurance Agreement** establish the terms under which FCIC provides reinsurance and subsidies on eligible crop insurance contracts sold by an insurance company. An

2015 RMA CROPS INDEMNITIES: As of January 19, 2016



Source: USDA Risk Management Agency

insurance company must enter into the standard agreements to be approved for writing insurance policies adopted for use by RMA/FCIC. By regulation, an insurance company must be in good financial standing and in compliance with the state laws where domiciled and writing business prior to being considered for approval of a Standard Reinsurance Agreement (SRA) or Livestock Price Reinsurance Agreement (LPRA).

In addition to the approval of policies and general management of the FCIC functions, RMA also conducts education and training of producers regarding the key areas of risk, how to best manage such risk, and the specifics of offered policies. These educational and training opportunities are provided through competitive educational grants and through a relationship with USDA NIFA that manages an **Extension Risk Management Education Program** delivered through four regional centers and a national center. These centers also provide education and training for producers through competitive grants offered to eligible entities who in turn meet with producers or plan and provide educational offerings.

Producers are served by a system of regional offices. Producers can search online⁴⁰ for crop insurance agents approved to offer crop, livestock or both types of insurance policies. Producers can also search⁴¹ for approved insurance providers who have entered into reinsurance agreements with RMA.

Special attention in the bill is paid to the growing **organic production sector** and to the needs of beginning farmers and ranchers, who often are unfamiliar with the complexities of crop insurance or management of risk on their new farm or ranch. RMA provides coverage for certified organic acreage and transitional acreage (acreage transitioning to certified organic acreage in accordance with an organic plan). As the organic sector continues to

grow, the coverage of organic production systems will likely continue to grow and improve as well. Beginning farmers and ranchers received assistance in the 2014 Farm Bill through efforts to make purchasing crop insurance more affordable. The bill exempted beginning farmers from paying administrative fees for crop insurance policies and allowed them to use the production history of previous farming operations in the decision making or physical activities. The bill increases the premium subsidy rates for beginning farmers by 10 percent during their first five years of farming. All these efforts make it easier for beginning farmers to access

insurance coverage which they might otherwise avoid purchasing due to the fragile nature of their operations in the first critical years.

Considerable attention is paid by RMA and other agencies of USDA to the compliance of producers with conservation-focused requirements. Producers must comply with **highly erodible land and**

wetland conservation requirements if they are to receive insurance premium assistance for crop insurance. Most likely, these producers are already required to comply with these critical conservation requirements if they are participating in FSA (farm lending) or NRCS (conservation) programs. The 2014 Farm Bill “re-linked” conservation compliance with the insurance premium subsidy. Conservation compliance requires producers to have a conservation plan if they plant annually tilled crops on highly erodible soil and prohibits producers from planting on or destroying wetlands for crop production. Producers who do not comply with conservation compliance can still purchase crop insurance, but they are ineligible to receive the premium subsidy paid by the federal government. Producers eligible for commodity, conservation, or disaster programs under FSA or NRCS will remain eligible for the government-paid crop insurance premium subsidy.

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Crop insurance is an important tool of risk management and the products in place now must be examined to ensure they are suitable for tribal food production systems.

The crop insurance benefits of producers who till **native sod** in Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota may be impacted. Crop insurance benefits are reduced on native sod acreage tilled for production of annual crop and remain reduced until the native sod acreage has been planted for four crop years.

RMA was directed in the 2014 Farm Bill to develop new insurance products for underserved commodities and to address the ongoing issue of producers suffering a loss of insurable coverage when they experience lower yields following disasters. The 2014 Farm Bill provided some flexibility to producers when seeking coverage for these types of losses. Additionally, producers may do price elections for organic crops produced in compliance with the USDA National Organics Program that reflect actual retail or wholesale prices received by the organic producer. Research and development of new products for bioenergy crops, catfish, alfalfa, livestock diseases and business interruptions, whole-farm diversified operations, and food safety for specialty crops were also authorized. The **Noninsured Crop Assistance Program** (NAP), which provides weather-related loss coverage for commodities that lack available crop insurance, was expanded.

RMA was also authorized to include coverage for the value of on-farm activities necessary to make crops ready for market. The Manager's statement to the Farm Bill specified that this provision is meant to include post-production incidental processing activities that occur soon after harvest, including packing, packaging, washing, sorting, and other activities that are essential to marketable crop production. This provision will likely lead to better crop insurance products for specialty crop producers. The Whole Farm Revenue Risk Management product authorized for diversified farms will also likely be helpful to diversified farms if the complexities of such product can be simplified.

WHY SHOULD INDIAN COUNTRY CARE?

Decades ago it could correctly be said that few options existed for most producers in terms of insurance coverage of risks associated with agricultural production, and most producers sought relief from Congress when disasters occurred. Crop insurance is an important tool of risk management and the products in place now must be examined to ensure they are suitable for tribal food production systems.

Additionally, one of the four appointed farmer/rancher members of the FCIC governing board is Maggie Goode, a third-generation cattle rancher on the Flathead Reservation in Montana. She is employed by the Confederated Salish & Kootenai Tribes and has received the USDA Farm Service Producer of the Year award and the USDA Farm Services Volunteer of the Year award. She also serves on the board of directors for Eagle Bank, a tribally owned bank, and is a former representative of her Tribal Council. Maggie is the first Native appointed to the FCIC Board of Directors and was originally appointed in 2010. Supporting her and any subsequent tribal producers appointed to that board is important.

EXAMPLES OF OPPORTUNITIES IN THE CROP INSURANCE TITLE

In 2013, NCAI made the following recommendation regarding the Crop Insurance Title:

This title provides for federal crop insurance and disaster assistance, including policies for crop insurance coverage and risk management.

Tribal perspective:

Tribally owned farms and ranches are significant users of crop insurance products as important tools to support business investments. Ensuring that continued attention is paid to the array of crop insurance products offered is important. And making

sure that tribal-specific disaster and insurance needs are being met is critical. Reauthorization of prior programs and ensuring the continued health of current insurance programs is important to Indian Country agriculture, particularly as climate change and year-to-year weather impacts to these industries continue. A strong safety net in times of trouble is essential to a strong agriculture sector. Continuing to improve the number of types of insurance products all those within the agriculture sector can use to insure their crops, livestock, and business operations is important. Farming and ranching is inherently risky and without attention to crop insurance and disaster programs, a successful business enterprise can be lost in one season.⁴²

Additional opportunities in the Crop Insurance Title include:

RMA Study on Crop Insurance in Indian Country

RMA should conduct a study to ensure that the current range of crop insurance products does not inadvertently adversely affect tribal food production. If that study reveals that either the specific crop insurance products or the general guidance documents of RMA do not adequately consider tribal production issues, a separate administrative guidance or notice should be issued by RMA to ensure that such impediments are cured. Tribal livestock producers should be afforded the same opportunity to pay premiums upon the sale of the livestock instead of making an upfront payment.

Development of Crop Insurance for Traditional Foods and Livestock

RMA should encourage the development of a unique crop insurance policy designed to cover

the production systems associated with tribal traditional food and livestock. The production systems associated with such products should be recognized as Good Agricultural Practices (GAPs), and tribal producers should also be afforded the same opportunity to pay premiums upon the sale of the crop or livestock instead of making an upfront payment.

Tribal Producer Education Programs

RMA should ensure that at least 10 percent of all projects funded through its Risk Management Education Program are focused on tribal producer risk management training needs.

Allow Tribal Insurance Companies to Insure Tribal Producers

RMA should also begin immediately reaching out to the AMERIND Risk, a 100 percent tribally owned and operated insurance provider, because of its significant experience in offering and underwriting insurance needs in Indian Country. AMERIND Risk should be engaged to begin the process of offering crop insurance products in Indian Country because it serves a national intertribal audience. The current crop insurance research, product development, and policy sales areas are not developed for, but do not adequately reach, smaller tribal producers.

Appoint Tribal Producer to FCIC Board

USDA should consider appointing tribal producers to fill future vacancies on the FCIC Board.



TITLE XII: MISCELLANEOUS



While seemingly functioning as a “catch-all” for topics not covered in other titles of the Farm Bill, the Miscellaneous Title contains many important programs. In addition, the section can also contain program authority or create broad policy or management changes with sweeping impacts across the programs and authorities discussed in other titles or across the multiple mission areas, agencies, and offices of USDA.

The 2014 Farm Bill made some important changes that resonate throughout USDA’s programs and authorities. One such change was the establishment of the **Office of Tribal Relations within the Office of the Secretary**. Prior to the establishment of this office as a permanent part of the Office of the Secretary, the functions assigned to this important office either were not addressed at all, were addressed by uncoordinated activities, or “floated” among various offices and agencies. The creation of this office as a permanent component of the Office of the Secretary elevates the role of tribal consultation and the government-to-government relationship between tribal governments and the federal government. This relationship is founded in the trust responsibilities owed tribes through treaty and federal law, and locating the office at this level of responsibility within USDA creates much greater opportunities for consistency and effectiveness in how USDA delivers programs and services to tribal governments, tribal communities, and tribal producers.

The bill continues to authorize **Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers**, and adds **Veteran Farmers and Ranchers** as an important focus for USDA moving forward. The term “veteran farmers and ranchers” has been included throughout the Farm Bill to increase participation by veterans in Farm Bill programs. The definition of the term is: *a farmer or rancher who has served in the armed forces, and has either never operated a farm/ranch or has done so for 10 years or less*. A high percentage of the nation’s active military and deployed reserve forces come from rural areas and many have grown up

on or around farms and ranches. Their return to communities to either resume a possible career in food production or to begin a career post active duty will be greatly advanced by their inclusion in USDA programs. This title of the Farm Bill also creates a **Military Veterans Ag Liaison position**, which is very important to Indian Country because of the high number of military veterans returning to our communities and their traditional and continuing ties to our farming and ranching enterprises.

The bill also establishes a Socially Disadvantaged Farmers and Ranchers Policy Research Center charged with developing policy recommendations for protecting and promoting the interests of socially disadvantaged farmers and ranchers. The **Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers Program** (also known as the Section 2501 program), which has been in place since the 1990s and is focused on historically underserved farmers, was continued in the 2014 Farm Bill. The 2014 provisions provide only \$10 million annually to support the program (down from approximately double that amount in previous Farm Bills).

The Farm Bill requires that USDA provide a **receipt for service** when an individual applies for a loan, applies to participate in a USDA program, or applies for other USDA benefits. This requirement will ensure that in the future, both USDA and individuals applying for benefits at USDA will have a record of such transactions.

The bill also establishes a **Sheep Production and Marketing Program** within the Agricultural Marketing Service. The competitive grant program strengthens the production and marketing of sheep products through improved infrastructure, business and resource development. **Country of Origin Labeling (COOL)** has been — and continues to be — a major issue facing the livestock industry. The Farm Bill directs the Secretary to conduct an economic analysis of the COOL since its implementation. The bill also adds venison to the list of products covered by the statute. However, the bill does not make any



changes to the statute or more recent USDA rules regarding the labeling of meat products.

To increase participation by limited-resource, beginning, and socially disadvantaged farmers, the premium for the **Noninsured Crop Assistance Program** (NAP) was reduced for individuals in such groups by 50 percent.

The Farm Bill also responds to some of the concerns agriculture producers have raised related to the U.S. Food and Drug Administration's (FDA) proposed rules to implement the **Food Safety Modernization Act**. The 2014 Farm Bill requires that when publishing the final produce rule, FDA must include **scientific and economic analyses of the impacts** the final rule will have on agriculture, as well as a plan for evaluating and responding to the impact of the final rule once it becomes effective.

The Farm Bill also amends the Clean Water Act to exempt certain silviculture activities from the National Pollutant Discharge Elimination System (NPDES) permit requirements. *Specifically, an NPDES permit will not be required for discharge*

from runoff from the following activities: nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations surface drainage, or road construction and maintenance. The bill also contains a provision authorizing grants to state and tribal governments and research institutions to promote the **domestic maple sugar industry**.

Finally, the National Drought Council that was in the U.S. House of Representative's version of the 2014 Farm Bill was not included in the final bill. However, the Farm Bill conference committee included report language directing the Secretary to work closely with state and tribal stakeholders as the Department implements the **National Drought Resilience Partnership** established by the Secretary. This provision is very important to tribes because many tribes have suffered through continued droughts. Having a tribal voice on the National Drought Resilience Partnership is very important.

For several decades, there has been increasing interest and focus on **local food, healthy food**

access, sustainability, and organic agriculture investments and increasing funding for rural development. The 2014 Farm Bill authorized more than \$500 million from 2014-2018 in the areas of local food, rural development, organic agriculture, and healthy food access initiatives – a nearly 50 percent increase over the previous funding levels. Funding for these types of programs are scattered throughout the Farm Bill in various titles. Examples include: farmer’s market and local food promotion (\$150 million over five years); specialty crop block grant program (\$100 million over five years); value-added producer grant program (\$63 million over five years); rural microentrepreneur assistance (\$15 million over five years); food insecurity incentive program (\$100 million over five years); and community food projects (increased to \$9 million a year from \$5 million).

The 2014 bill restored the **Organic Production and Market Data Initiatives** which develops data about the organic sector to improve decision making. In addition, the bill directs USDA agencies to utilize the data to coordinate with policy makers and enable the RMA (crop insurance) agency to develop better policies of crop insurance for organic producers. In addition to gathering information on the organic sector, the bill instructed the creation of data initiatives to increase information for local and regional food markets. A local food production and program evaluation provision in the law directs USDA to collect data on the production and marketing of local or regionally produced agriculture products, monitor the effectiveness of programs serving this sector, and identify barriers to local and regional market access due to regulations aimed at small scale producers. The bill invests \$444 million in beginning, veteran, and socially disadvantaged farmer initiatives over 10 years – a more than 150 percent increase in funding over previous farm bills.

The Miscellaneous Title also created many **pilot programs** in various titles of the Farm Bill. One pilot or demonstration project focused on using SNAP benefits in online transactions. Another required USDA to implement a pilot program

to allow states to operate EBT retailer fraud investigation programs. The Secretary is required to study the ability of the **Northern Mariana Islands** to administer SNAP directly. Another \$200 million pilot program was focused on studying programs in 10 states that would engage able-bodied parents in TANF-type work and job training as part of receiving SNAP benefits. An additional \$5 million in funding was directed toward providing more fresh fruits and vegetables in the schools. Up to \$10 million in FSA microloans were to be made available to CDFIs through a pilot project, and up to \$10 million was authorized for the Rural Gigabit Network Pilot Program to provide very fast Internet service to underserved areas. The Forest Service Large Airtanker and Aerial Asset Firefighting Recapitalization pilot program was also created to address the needs for air tankers in fire-fighting functions. An index-based weather insurance pilot program with subsidized premiums was created, and a local/regional food aid program that provides food aid overseas was created to study the savings that would be realized if purchase and delivery of local food in food aid programs occurred.

Local and regional foods received additional focus in the Nutrition, Credit, Rural Development and Horticulture Titles. The bill provided for increased consumer access to local and regionally produced food, increased marketing, increased farmer direct-to-consumer sales and intermediary outlets (farm-to-institution, local retailers, food hubs, restaurants, etc.). The bill expanded the funding and scope of farmer’s market and local food promotion programs and required the USDA to develop crop valuation methods that serve local and regional food producers in better ways. A new program was created to provide grants to organizations that encourage fruit and vegetable consumption by SNAP recipients by increasing their purchasing power. It includes a preference for promoting local food and direct-to-consumer sales locations. The farmer’s market promotion program was expanded to support projects that include intermediaries (e.g., food hubs), and mandatory funding for the program was increased.

SNAP-authorized retailers and benefit redemption locations in Nutrition Title included farmer's markets and other direct-to-consumer marketing outlets. These locations are not required to pay all of the electronic benefit transfer equipment and implementation costs. SNAP benefits can also be used in Community Supported Agriculture business models. USDA was also allowed to carry out a pilot project that gives farm-to-school programs the flexibility to purchase fresh fruits and vegetables from multiple suppliers and specify a geographic preference in procurement. The Healthy Food Financing Initiative in the nutrition title authorizes the USDA to work with CDFIs to manage funds with the goal of supporting retail food projects in low-income communities that would expand or preserve food access and accept SNAP benefits. Local and regional food systems can be prioritized in these projects. Local and regional production of fruit and vegetables is supported through multistate projects authorized in the specialty crop block grant programs of the Horticulture Title. The value-added producer grant program can also target to small and mid-sized farms, socially disadvantaged farmers, veterans, and local and regional food supply networks.

Beginning farmers and ranchers are supported in multiple titles as well. The conservation, credit, rural development, research, crop insurance and miscellaneous titles all contained provisions in the 2014 Farm Bill that continued to provide focus and support to the importance of beginning farmers and ranchers. Support is provided through: (1) increased funding for beginning farmer and rancher development through technical assistance and education (\$100 million); (2) farmland transition assistance; (3) improved outreach, allowing the transfer of conservation lands to beginning farmers and ranchers by assisting retired or retiring farmers in transitioning their lands (\$33 million); and (4)

changing the definition for farm ownership direct loans from FSA to allow for more producers to be considered as beginning (by adjusting the acreage limit within the definition of "qualified beginning farmer or rancher"). The term "beginning farmer or rancher" was also added to crop insurance programs, improving their ability to access crop insurance by providing a 10 percent reduction

in insurance premiums and exempting them from paying the \$300 administrative fee for catastrophic level policies. The act also enhances the provision of catastrophic-level risk protection for beginning farmers who are producers of commodities that do not have insurance products available (e.g., specialty crop producers and producers in diversified

operations on smaller acreages). Premiums on buy-up level coverage were reduced by 50 percent for beginning farmers, who can also have their application fee waived. Title II also allows a 25 percent payment reduction for beginning farmers in managed haying and grazing programs on the Conservation Reserve Program lands.

The **Beginning Farmer and Rancher Development Account Pilot Program** was extended through 2018. Additionally, the USDA FSA microloan program for beginning farmers and ranchers was made permanent, and loans to these producers and veteran farmers are exempt from term limits that would otherwise apply on direct operating loans. (Term limits refer to the limitations on how long individuals can receive farm loans from FSA before they must graduate to private credit.) The act increases the maximum conservation loan guarantee amount from 75 percent to 90 percent of the total loan amount for beginning farmers or ranchers. Maximum loan amounts for beginning farmers and ranchers seeking to purchase real property are increased to \$300,000. Beginning farmers and ranchers are prioritized for value-added producer grants.

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*The value-added
producer grant program
can also target small
and mid-sized farms,
socially disadvantaged
farmers, veterans, and
local and regional food
supply networks.*

According to the USDA Economic Research Service, beginning farmers accounted for nearly 11 percent of all land in U.S. farms in 2011, but for only 7 percent of acres enrolled in crop insurance. The new premium assistance provisions of the Crop Insurance Title should be able to improve the use of crop insurance among these farmers. In 2012, FSA made 13,384 direct loans to beginning farmers for a total of \$1.1 billion and guaranteed another 2,659 loans to beginning farmers for a total of \$639 million. The two programs combined made 50 percent of their loans and 42 percent of their loan obligations in 2011 to beginning farmers. In 2013, the national average farm size was 418 acres, while the median acreage was only 80 acres. In some states, the FSA portfolio to tribal producers who meet the definition of “new or beginning” reaches as high as 80 percent of their overall lending portfolio.

Veteran farmers and ranchers were impacted by provisions in the conservation, credit, rural development, research, and miscellaneous titles. Microloans for veterans were exempted from term limits applied to other USDA direct loans. The Transition Incentive Program also allowed land coming out of CRP programs to be eligible for additional payments if the landowners lease or sell the land to a veteran farmer. USDA is required to set aside a portion of the EQIP program and the CSP program for beginning and disadvantaged farmers, and the 2014 Farm Bill requires that preference be given to veteran farmers and ranchers. They are also given preference in the value-added producer grant program. As USDA establishes the Military Veterans Agricultural Liaison Program, they must ensure that veteran farmers and ranchers are provided information concerning training programs. The Liaison may enter agreements with service providers to promote research, educational materials development, workshops, vocational training, mentorships, and internships. In addition, the BFRDP program is required to make veteran farmers and ranchers a priority for agricultural rehabilitation and vocational development programs and training, and the program is required to set aside a minimum of 5

percent of funding to veteran programs. Veterans are defined as those who served in the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard, including the reserve units and who were discharged or released other than in a dishonorable status and who have: (1) not previously operated a farm or ranch or (2) operated a farm or ranch for not more than 10 years. The Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers Program was expanded to include veterans.

WHY SHOULD INDIAN COUNTRY CARE?

The issues covered within the Miscellaneous Title cover a wide variety of areas ranging from veterans’ services to specific grant-making programs, to authorities related to the Office of the Secretary. There are many areas of the Miscellaneous Title that touch on issues that impact tribal communities and also support specific programs used by tribes. This overarching title of the Farm Bill can be used to coordinate work across all titles and create new programs and authorities that can be either piloted or implemented. This title is the avenue to address issues that do not fit neatly in other titles.

EXAMPLES OF OPPORTUNITIES IN THE MISCELLANEOUS TITLE

There has been a vast amount of discussion of the legalization of hemp production in Indian Country. The legalization of **hemp production** for industrial purposes is strongly supported throughout tribal leadership and the agriculture sector. Hemp production would significantly improve the economic situation of tribal communities, many of whom have very few other viable options for economic development. Investment in the production, harvesting, storage, distribution, and ultimate commercialization of hemp for industrial purposes would likely do more to raise boats in Indian Country than any other production system. Clearly the production of healthy foods — fruits and vegetables — should be increased and

produced by or made easily accessible for tribes, but we also need strong production of commodities that will allow us to build communities. Industrial hemp offers that opportunity.

Specific NCAI recommendations found in its FY 2018 document include:

Office of Tribal Relations: Fund the USDA's Office of Tribal Relations at a minimum of \$1.5 million.

The Office of Tribal Relations (OTR), located within the Office of the Secretary, is a critical voice for agriculture in Indian Country within the USDA, especially since a clear majority of USDA's services and programs affect and touch tribal lands and communities. Many times, when decisions are being made, there is a need to open lines of communication between the agency and within Indian Country. OTR serves a linchpin role in expanding all USDA program support throughout Indian Country, as well as ensuring that relevant programs and policies are efficient, easy to understand, accessible, and developed in consultation with the American Indians and Alaskan Native constituents they impact. The OTR is also responsible for coordinating policies affecting American Indians and Alaska Natives across other federal agencies and throughout the USDA.

Since its inception, OTR has increased its responsibilities in four major areas:

- Under the *Keepseagle v. Vilsack* settlement, OTR coordinates all USDA responsibilities for Technical Assistance in 10-15 regional locations over the course of the five-year settlement period and is the Designated Federal Official for the Council for Native American Farming and Ranching.*
- Pursuant to Memorandums of Understanding (MOUs) between the USDA and the Bureau of Indian Affairs, OTR is critical to the development of inter-agency strategic plans involving data sharing, land consolidation, and credit deployment.*
- OTR is the lead for implementation of the intra- and inter-agency implementation of the USDA's 2012 Sacred Sites Report and corresponding*

MOUs between USDA and the US Departments of the Interior, Energy, and Defense, as well as the Advisory Council on Historic Preservation.

- OTR supports USDA Rural Development (RD) and Rural Utility Service on implementation and administration of the 2012 Substantially Underserved Trust Areas initiative under section 306F of the Rural Electrification Act of 1936, as amended (7 U.S.C. 906f). This initiative will allow RD to provide greater flexibility and more favorable loan terms around much-needed electricity, water and waste disposal, telecommunications, distance learning and broadband infrastructure in trust areas.*

The OTR's initial funding level of \$1 million in FY 2010 was slashed in FY 2011 and FY 2012 and continues to remain around \$500,000 in FY 2017. This leaves OTR with insufficient personnel and resources to support its vast mission within the Department, in partnership with other federal departments, and throughout the many Native communities in the United States. With the added responsibilities for OTR initiated in 2012, it is clear that OTR requires additional resources to function in accordance with US law and policy.

Lack of sufficient funding presents a barrier to OTR expanding their work to provide the programs, technical assistance, content or even the basic communications to ensure that non-Internet education and training are available to tribes for all USDA programs. Active tribal participation in USDA funding opportunities is required to assist the build-out of broadband infrastructure, and support the workforce development required to fully utilize Internet capabilities, business programs, and financing necessary to bring Native goods and services to market.⁴³

NCAI's themes and strategies also include focusing more broadly on economic development, infrastructure development, holistic development, and using Native resources to improve the lives of Native people while protecting federal resources available to tribes. By investing in our communities, we can lessen crime, improve health and education,

and build strong tribal economies. Being able to rely on federal investments while also ensuring that access to private investment is not stymied are achievable goals. NCAI also supports investments in communities that will result in decreased crime rates and land-based investments.

Other types of programs and assistance not covered in other bill titles, including provisions to assist limited-resource and socially disadvantaged farmers, and agricultural security, among others. This title has many provisions designed to ensure that the voices of minority producers and socially disadvantaged producers continue to be heard by the Department.

Tribal Perspective:

Indian Country believes that the provisions in the Miscellaneous Title need continued analysis and improvement. Ensuring that the National Appeals Division process for appealing administrative decisions, particularly in the years that will follow settlement of the outstanding civil rights complaints of past decades, is fair and easy to engage with is important to ensuring improvements and fairness are engrained within the Department's processes.

The Minority Advisory Committee is important, but this Farm Bill should make permanent the Native American Farmers and Ranchers Advisory Committee to the Secretary, which was agreed to in the Keepseagle settlement. Ensuring that the Secretary continues to hear directly from Indian Country on matters related to strengthening farming and ranching is critical, because the land tenure and regulatory processes that are unique to farming and ranching on trust lands and within reservation communities are not shared with any other group of individuals. Indian Country is equally concerned with improving our biosecurity preparedness through cooperative agreements and partnerships with USDA. Our lands are among the most remote in the United States and as such we are among the most susceptible to terroristic impacts.

Finally, further efforts should be made to ensure that the improvements incorporated within the Keepseagle settlement programmatic relief are made

a permanent part of USDA's operating practices moving forward, including the analysis of placement of shared BIA/USDA offices on reservations, which would be particularly important now when so much attention is being paid to streamlining programs, adjusting to retirements and sequestrations, and the attendant concerns regarding impacts on actual program delivery moving forward. Other types of programs and assistance not covered in other bill titles, including provisions to assist limited-resource and socially disadvantaged farmers, and agricultural security, among others.

1. 638 Contract Authority

At present, no funding authority/program within the USDA allows 638 contract authorities. If Congress would permit/authorize as a demonstration project a 638-contract authority within each agency of the Department, USDA could "attack" the subject of working through how it might implement 638 authorities in a comprehensive way across the entire Department.

2. [NEW] Indian Agriculture Development Trust Fund⁴⁴

Recommended Provisions

Proposed Legislative Text: An Act to support agriculture economy on Indian Reservations and other purposes

Section. 101. Short Title.

Section. 102. Findings.

Section. 103. Definitions.

Section. 104. Establishment of Midwest Watershed Agriculture Development Trust Fund.

Section. 105. Indian Agriculture Development Grants.

Section. 101. Short Title.

This Act shall be cited as the "Midwest Watershed Agriculture Trust Fund Development Act."

Section. 102. Findings

Congress finds that –

a. The highest unemployment rates in the country are on American Indian Reservations with some rural tribes having a chronic unemployment rate as high as 80%.

b. This economic failure leads to a comprehensive

social breakdown that affects health care, education, crime and public safety, and the entire quality of life for Indian peoples living on those reservations.

c. Production agriculture has the potential to provide a private sector economy for rural Indian tribes.

d. Tribes have not benefitted from a secure, stable source of technical assistance and expertise in the development of their agriculture-related economies, and as such would benefit from same.

e. Several statutes have been enacted that establish Infrastructure Development Trust funds for individual tribes.

f. Existing Trust funds have been successfully financed by revenue from the Western Area Power Administration.

Section. 103. Definitions

a. The term “Secretary” means the Secretary of Agriculture.

b. The term “Indian Tribes” or “Tribes” means those Indian Tribes so recognized by the Department of the Interior.

c. The term “Department” means the United States Department of Agriculture.

d. “Extension Services” means those education and extension of research knowledge services commonly delivered through the Cooperative Extension federal programming formula funds in each state. For purposes of this Act, “Extension Services” shall

mean the provision of education and extension of knowledge in the subject areas of farm financial and related business planning services; marketing planning services; legal education services; production management services (crop, livestock, alternative crops, etc.); and youth development services (FFA, 4-H, and other tribal-government sanctioned youth development and engagement, including leadership program services focusing on agriculture and natural resource engagement, food and nutrition, and food-related entrepreneurship development).

e. “USDA” means the United States Department of Agriculture

f. “Secretary” means the Secretary of the United States Department of Agriculture

Section. 104. Establishment of an Indian Agriculture Development Trust Fund

(a) There is hereby established in the Treasury of the United States a fund to be known as the “Indian Agriculture Development Trust Fund” (herein after the “Fund”).

(b) Beginning with fiscal year 2013, and for each fiscal year thereafter, until such time at the aggregate of the amounts deposited in the Fund is equal to \$1,000,000,000, the Secretary of the Treasury shall deposit 25% of the receipts from the deposits to the Treasury of the United States for the preceding year from the Western Area Power Administration into the



Fund. The Secretary of the Treasury shall invest the amounts deposited in the Fund only in interest-bearing obligations of the United States or in obligations guaranteed by the United States.

(c) The Secretary of the Treasury shall annually transfer to the Secretary of Agriculture the interest that accrues on the Fund to be used as grants to Indian Tribes to improve the infrastructure of farming Tribes, increase farm production, expand value-added agriculture businesses, and expand extension services.

Section. 105. Indian Agriculture Development Grants

a. The Secretary shall use the funds transferred from the Secretary of the Treasury for grants or loans (including micro-loans and loan/grant combinations) to Indian Tribes to improve irrigation, roads and transportation services, broadband services, public buildings, other essential services that support agriculture and natural resource development to benefit tribes.

b. The Secretary may provide grants to land grants universities in States with a high Indian population and significant Indian lands base for providing specialized agriculture-related extension services on Indian reservations. The Secretary shall establish the requirements for receiving said funds and shall regularly consult with tribal governments in delivering this program. The program shall be supported through the Office of Tribal Relations in the Office of the Secretary, which is hereby granted all necessary authorities to carry out the purposes of this act. The Office of Tribal Relations may receive input and support from the National Institute for Food and Agriculture and other agencies of USDA in carrying out its responsibilities on behalf of the Secretary.

c. The Secretary may also designate one university in the Missouri River Valley as the lead university for developing and coordinating Indian agriculture-related extension services throughout the United States and provide a grant for such purposes to said institution to perform coordination and collaboration roles between partner institutions and the Tribes they serve.

3. Authorize the establishment of an Office of Tribal Agriculture.

Proposed Provision

(a) In general. The Secretary shall establish an

Office of Tribal Agriculture within the office of the Secretary to coordinate all USDA programs as those programs apply to Indian Tribes; maximize the value of programs for Indian Tribes and to serve as a liaison between the Department and Indian Tribes. Among other responsibilities, the Office of Tribal Agriculture shall report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry not less than once each fiscal year on the activities of the Department in furtherance of the activities set forth in this section.

(b) Authorization of Appropriations. For the Office of Tribal Agriculture, there are hereby authorized to be appropriated not more than \$2,000,000 for 2014 and each subsequent fiscal year, to conduct activities related to supporting the Department in meeting its goals concerning tribal programs, including the establishment of cooperative agreements for the provision of technical assistance and outreach and education programming, the conduct of grant programs, and the establishment of office staff to accomplish the goals set forth in this section.⁴⁵

Tax Provisions

This title creates the Agricultural Disaster Relief Trust Fund to fund Supplemental Agricultural Disaster Assistance. It also introduces numerous tax provisions affecting customs fees, conservation and commodity program payments, timber investment, biofuel production, and agricultural income.

Tribal Perspective

All successful food and agriculture businesses are knowledgeable of and incorporate knowledge of tax provisions into their business plans and their plans to transition business operations to the next generation. Many tax advantages exist to those in the agriculture and energy sector. Ensuring Indian Country fully accesses all relevant tax advantages to their food, agriculture and energy businesses is critical to long-term success. Tax issues will be a looming topic this coming year as Congress positions itself for significant tax reform. In this process, Indian tribes want to ensure they are not left out of discussions on how best to simplify the Internal Revenue Code. While NCAI realizes that any tax components fall within the jurisdiction of the Senate Committee on Finance,

we have included some tax-related suggestions below which our membership would like included within the Farm Bill.

1. Tax Extenders

Currently, agriculture is increasingly dependent on financing and development tools. As such, NCAI supports the extensions of both the Indian Employment Tax Credit (26 U.S.C. § 45A) and the Accelerated Depreciation tax incentive for business property located on Indian reservations (26 U.S.C. § 168). Both tax incentives expired at the end of 2012, however many businesses operating on the reservation rely on these tax credits to help subsidize the cost of materials and workers. While we would like to see these extended, we also feel the accelerated depreciation and Indian employment tax credits are inconsistent because they continue to be renewed year after year instead of being made permanent, or renewed for a longer duration (4-7 years). This uncertainty makes them unreliable as investment incentives to attract the multi-year large-scale projects they were intended to attract. And while we acknowledge the unfavorable budget climate, we note that making these incentives permanent does not increase costs on an annual basis, and would attract new businesses into Indian country instead of only benefitting those non-Indian businesses already operating on the reservation. NCAI supports these provisions but wants to remind lawmakers that something more is needed to spur business development in Indian Country, particularly in energy development.

2. Tax Credits for Buying Indian Food and Agriculture products

NCAI also recommends adding language that would create a new “Buy Indian” avenue that would encourage consumers and those within the food supply chain to buy American Indian and Alaska Native food products. Such incentives will assist in improving the attention drawn to the growing range of Native food products in the supply chain and provide incentive for those distributors, retailers, and related food purchasers to examine Native food product purchases to meet their food supply needs.⁴⁶

Livestock

This (sub)title enhances electronic mandatory livestock reporting. It adds and redefines commodities covered by country-of-origin labeling. The (sub)title allows some interstate sales of state-inspected meat and poultry, establishes voluntary catfish grading and inspection, and amends rules for hog and poultry production contracts. It addresses livestock disease prevention and food safety concerns, increases funding for National Sheep Industry Improvement Center, and requires manure uses study.

Tribal Perspective:

Most producers in Indian Country, according to most recent Agricultural Census data, are in the livestock sector. This title ensures that livestock marketing is fair and transparent; that livestock disease is followed and prevented; and that country of origin labeling of livestock products is adequately addressed.

AMERICAN INDIAN FARMS AND RANCHES Income Statement Sheet		
	2007	2012
Market value of products sold	\$3.2 billion	\$3.2 billion
Government payments received	\$90 million	\$90 million
Total production expenses	\$2.9 billion	\$2.9 billion
Net cash farm income	\$513 million	\$371 million
Average net cash income per farm	\$8,351	\$6,632

Source: U.S. Department of Agriculture National Agriculture Statistics Service

Indian Country livestock operations benefit when the livestock markets are strong and livestock disease is carefully monitored. Ensuring production contracts are fair and that producers have a means to report and have investigated violations of federal law is important to the market health for Indian livestock production.⁴⁷

Veteran's services are critical to Indian Country because Native people serve in the military at higher rates than any other segment of the population. Native veterans are also key to many of the most successful and longest-running farms and ranches in Indian Country. We also know that our younger veterans need support and encouragement to find their careers and life's work after they return home. We need them to lead many of our farms and ranches into the future.

If USDA is given the authority to conduct a pilot program to examine the ability of the Mariana Islands to manage SNAP, then other tribes throughout the country should also be able to manage SNAP and other feeding programs. A USDA report examining the feasibility of tribes managing feeding programs discussed in Nutrition Title section, identifies key concerns that can be addressed by future Congressional action. The next Farm Bill should take steps to implement the key components identified in that study that would open the door for tribal governments to manage those important programs. By including 638 authority and passing key provisions that would support tribal program management of feeding programs, additional steps could be taken throughout the USDA to pilot (in future Farm Bills) tribal management of other programs, such as key rural development, FSA direct lending, or conservation programs.

Profound efficiencies could be gained and more

tribal lands and tribal programs could be supported by housing the governmental functions of key infrastructure, lending, or conservation programs within tribal headquarters. NRCS has already placed federal NRCS liaisons in key tribal headquarters;

FSA has already opened field offices on tribal lands; and the Farm Bill already contains a provision allowing the placement of USDA field offices (RD, FSA, NRCS) in tribal headquarters. Additionally, tribal governments already manage key health and wellness programs, health clinics and

hospitals, housing, and construction and transportation programs authorized by other federal departments. As federal funding and staffing levels continue to decline, engaging with Indian Country on deployment of USDA programs in concert with tribal government leadership needs to be seriously considered. Congress needs to pass legislation to allow these governmental functions which impact so many tribal citizens to be managed by tribal governments.

The Office of Tribal Relations is a critical conduit for tribal governments, communities, organizations, and producers to advocate for and on behalf of USDA's interactions with tribes. The creation of an Office of Tribal Agriculture would augment the role of the Office of Tribal Relations by focusing specific attention on food production on tribal lands.

Solid data is also required. The National Agricultural Statistical Service (NASS) conducts the Agriculture Census every five years. The NASS has done an important job collecting data within Indian Country more effectively, and we owe our increased knowledge and deeper data concerning tribal food production to them. The information collected at the Bureau of Indian Affairs is not the same information collected by NASS, and the NASS data is the data



Profound efficiencies could be gained and more tribal lands and tribal programs could be supported by housing the governmental functions of key infrastructure, lending, or conservation programs within tribal headquarters.

upon which USDA programs are calibrated and grounded. Nevertheless, NASS has acknowledged that the data it has on Indian Country may be under-counted by half. Support for maintaining the work of NASS in Indian Country is needed.

Additional opportunities in the Miscellaneous Title include:

Increase Cooperative Agreements between APHIS and Tribes

Enhanced authority for the livestock and plant disease agency of the USDA – Animal and Plant Health Inspection Service (APHIS) – could dramatically increase the number of cooperative agreements it has with tribal governments and tribal organizations. Since tribal lands are among the most remote in the United States, it is important to ensure that animal and plant health is monitored closely and that animal and plant disease is dealt with properly and in ways that do not cripple Native agriculture and food production. Increasing the amount of funding of cooperative agreements is an important way to not only further the growth of agriculture management and governmental control at the tribal government level, but also meet the goals and concerns of APHIS.

Recognize Tribal Departments of Food and Agriculture

All agencies within the USDA and the Office of Intergovernmental Affairs at USDA permanently recognize and incorporate “Tribal Departments of Food and Agriculture” into their ongoing interface with other offices of government.

Tribal Consultation and Consideration of COOL Impacts on Tribal Producers

Any future work on Country of Origin Labeling must take into consideration the unique needs of Indian Country and should not impose any unfunded

mandates or restrictions on the sovereignty of tribal governments. Careful weighing of any future regulations in this area must incorporate a separate tribal consultation component and regularly discussions with tribal producers and tribal agriculture organizations.

Education, Training and Scholarship Programs to Support Native Producers and Scientists

Develop a new program that focuses on educating and training of the tribal agriculture labor force, provides key scholarships to Native producers, and encourages Native scholars and scientists to focus on food and agriculture. USDA currently has multiple internship, scholarship, mentoring, and other programs focused on increasing the diversity

of American agriculture by educating the next generation of tribal leaders in food and agriculture. However, Native representation is low, and outreach to Native communities is weak. A Native scholarship program should be adequately funded and coordinated throughout the land grant system. A minimum of \$10 million is needed to adequately endow a centralized scholarship fund

for Native youth and scholars. This program should be managed by the Office of Tribal Relations and any new Office of Tribal Agriculture that is created.

Maintain and Fund the Technical Assistance Network

The Technical Assistance Network, which has been in place for more than five years through a cooperative agreement between USDA and the Intertribal Agriculture Council, must be permanently maintained and funded through contributions from each of the agencies and offices of USDA. This effort should be funded at least \$2 million to \$3 million annually and it must continue to maintain regional offices in each of the 12 BIA regions to ensure access for all of our Native producers.

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Develop a new program that focuses on educating and training the tribal agriculture labor force, provides key scholarships to Native producers, and encourages Native scholars and scientists to focus on food and agriculture.



Interdepartmental Task Force on Indian Agriculture

The Office of Tribal Relations, the Office of the Secretary, and representatives of each of the agencies and offices of USDA, along with the Bureau of Indian Affairs (BIA), should be required to take part in an Interdepartmental Task Force on Indian Agriculture. The purpose of the Task Force shall be to develop administrative efficiency and regulatory changes needed to ensure Native agriculture is supported and allowed to increase. The Task Force shall be required to report annually to the Secretary of Agriculture and the Secretary of Interior.

OAO Outreach and Internships for Native Students

The USDA Office of Advocacy and Outreach (OAO) should be required to fund internships (temporary placements) for Native students at a

level equal to the number of internships the office supports for any other socially disadvantaged group (e.g., Hispanic, African American, Asian American, women, etc.). The OAO has been inconsistent in funding these internships for Native students and they should be required to do so, if they fund members of other groups.

The Tribal Liaison position within the OAO offices that focuses on the relationship between the American Indian Higher Education Consortium and USDA (and staffs the joint leadership council of AIHEC and USDA officials) should be moved immediately to the Office of Tribal Relations.

Coordination with BIA on Agricultural Resource Management Plan

The BIA should be required to coordinate with USDA in all aspects of supporting any tribe that wishes to

draft and implement (including receiving Secretary of Interior support) an Agricultural Resource Management Plan, authorized under the American Indian Agricultural Resource Management Act of 1993 (AIARMA). This act has never been fully implemented and only a few tribes have placed a plan in motion. The BIA, working in concert with USDA, should prioritize finding resources to assist tribes (including technical assistance resources) in establishing plans authorized under the act. The BIA should be required to accept any conservation plan or forest management plan conducted by the NRCS or USFS agencies within USDA as equivalent to any environmental assessment deemed necessary in implementing the AIARMA. Tribes should not be required to conduct a full NEPA analysis to conduct food and agriculture operations on their lands, as such a requirement is far more than any applicable law and this interpretation violates principles of rights to food, food access, environmental or food justice, and food sovereignty.

Increase FSMA Technical Assistance Funding for Tribal Producers

Food Safety Modernization Act training and technical assistance funding should be increased for tribal producers. There are unique legal, jurisdictional, production, water, land use, and related issues and concerns regarding its implementation that will inhibit tribal food production if not addressed through enhanced food safety training and technical assistance. The Native American Outreach, Training, Technical Assistance, and Education cooperative agreement funded through the FDA is attempting to reach the technical assistance and training needs of tribal producers, but USDA is not funding such efforts on a regular basis. The Farm Bill should require that the FDA double the amount of funding received by the Native outreach organization, since that organization is required to conduct activities that cover twice the land base that any other regional

training center covers. The Farm Bill should also require that the USDA fund an additional equivalent amount of activities to ensure that tribal producers are reached with this information, which will be vital to their compliance and their ability to reach markets for their products.

Tribal Representation on All Federal Advisory Committees

USDA should be required to recruit and appoint tribal members to each of the more than 100 federal advisory committees it seats and supports. In addition, the Council for Native American Farming and Ranching should receive funding to support its work, and it should become a permanent FACA advising the Secretary and the USDA.

USDA should be required to work alongside other relevant federal departments to ensure that weather reporting systems and stations are located on tribal lands throughout the U.S., because the gathering of that information is vital to predicting production yields and assessing disaster impacts, among other weather-related needs. Currently, very few weather reporting stations are located on tribal lands, and USDA should take the lead in working with other departments to ensure this is addressed.

Buy Indian and Indian Preference for USDA Food Purchasing

In addition to the tax credits for “buy Indian” agriculture, the language that controls all contracting and procurement by USDA, including the language that controls the procurement of food, should be amended to not only recognize and support a “buy Indian” provision, but should also allow an “Indian preference” particularly when USDA is purchasing any product, including food, being utilized by Native people within their communities (such as food in the commodity food programs).

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USDA should be required to recruit and appoint tribal members to each of the more than 100 federal advisory committees it seats and supports.

Make the Indian Agriculture Trust Fund Available to All Tribes

While the creation of an Indian Agriculture Trust Fund is an important goal, Congress should require that all funds used in the trust fund should also be available to tribes in other parts of the country and that a study should be performed by USDA to find other similar sources of income to fund such trust fund and report back to Congress as to the findings. The need for such a trust fund is pervasive throughout Indian Country, not just in the Midwest or Missouri River basins and watersheds.

USDA and BIA Work Group on Farming and Ranching

Finally, USDA and the BIA should be required to form a permanent working group that examines all aspects of the interface of farms and ranches on tribal lands, and reports annually to both the Secretary of Agriculture and the Secretary of Interior concerning administrative changes that should be made to further the access of tribal governments, producers, and food businesses to all programs and authorities of USDA.





CONCLUSION

For too long, Indian Country's voice in the Farm Bill debate has been limited to a few incredible individuals and organizations who have carried the water for the past several decades. This document encapsulates this Herculean effort and shows the full breadth of opportunities the Farm Bill offers Indian Country. The next Farm Bill could be a \$1 trillion spending influx for agriculture and rural development.

The time to act is now. By adjusting, developing and improving the Farm Bill's programs, we can build upon the already great work happening in our communities surrounding food and agriculture. We can improve and expand our infrastructure. We can develop our food systems. We can provide the means for our agriculture businesses to thrive. We can continue to address and improve the health of our people.

Indian Country must not only have a seat at the table during the Farm Bill debate, but must be a chorus of voices speaking loudly and strongly for our food and agriculture producers and our tribal communities. Improving the Farm Bill for Indian Country will help bolster our work to achieve the truest form of sovereignty: feeding ourselves in our own foods systems with our own foods.





ENDNOTES

¹ Fort Laramie Treaty, 1868, Between the U.S. and the different bands of the Sioux Nation of Indians, Article III, VI, XIII, XIV, *et al.*

² *Id.*; *see also* Treaty with the Choctaw 1830, September 27, 1830, 7 Stat., 333 (known as the Treaty of Dancing Rabbit Creek); Article XIX. *See also*, Treaty Between the United States of America and the Navajo Tribe of Indians, June 1, 1868, ratification July 25, 1868.

³ Permanent General Law Relating to Indian Affairs, Section 2071, Title XXII.

⁴ Treaty Between the United States of America and the Navajo Tribe of Indians, June 1, 1868, ratification July 25, 1868., Article VII.

⁵ Treaty with the Menominee, 1831 (February 8, 1831), Fourth.

⁶ Agricultural Act of 2014, Public Law 113-79 (113th Congress) Feb. 7, 2014. The Act remains in effect through 2018. We will refer to the Act as the “2014 Farm Bill” throughout.

⁷ U.S. Department of Agriculture Food and Nutrition Service, *Addressing Child Hunger and Obesity in Indian Country: Report to Congress Summary*, Jan. 2012, available at: <https://fns-prod.azureedge.net/sites/default/files/IndianCountrySum.pdf>.

⁸ All references to “tribal lands” in this report are inclusive of the many different types of lands that make up Indian Country, including lands held in trust by the U.S. Department of the Interior for tribes, allotted lands, and land held in fee or restricted fee by Native producers.

⁹ U.S. Department of Agriculture National Agriculture Statistics Service, *2012 Census of Agriculture Highlights: American Indian Farmers, Sept. 2014*, available at: https://www.agcensus.usda.gov/Publications/2012/Online_Resources/Highlights/American_Indian_Farmers/Highlights_American_Indian_Farmers.pdf.

¹⁰ *See* Indian Self-Determination and Education Assistance Act of 1975, Pub. L. No. 93- 638, as amended.

¹¹ U.S. Department of Agriculture. (2012). *2012 Census of Agriculture*. Washington, DC: National Agricultural Statistics Service.

¹² U.S. Department of Agriculture National Agriculture Statistics Service, *2007 Census of Agriculture: American Indian Farmers*, available at: https://www.agcensus.usda.gov/Publications/2007/Online_Highlights/Fact_Sheets/Demographics/american_indian.pdf.

¹³ U.S. Census Bureau, 2010 Census, Summary File 1, Tables P3 and P6.

¹⁴ National Congress of American Indians (NCAI), *Fiscal Year 2018 Indian Country Budget Request: Investing in Indian Country for a Stronger America*, Feb. 2017, pg. 91, available at: <http://www.ncai.org/resources/ncai-publications/indian-country-budget-request/fy2018>.

¹⁵ National Congress of American Indians (NCAI), *Farm Bill Reauthorization Tribal Recommendations*, April 30, 2013, pgs. 1-2.

¹⁶ “commodity, n.” *English Oxford Living Dictionaries Online*, Oxford University Press, March 2017, available at: <https://en.oxforddictionaries.com/definition/commodity>.

¹⁷ U.S. Department of Agriculture Economic Research Service, *Agricultural Act of 2014: Highlights and Implications, Crop Commodity Programs*, updated May 2017, available at: <https://www.ers.usda.gov/agricultural-act-of-2014-highlights-and-implications/crop-commodity-programs/>.

¹⁸ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 2-3.

¹⁹ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 3-5.

²⁰ NCAI, *Fiscal Year 2018 Indian Country Budget Request*, pg. 95.

²¹ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pg. 6.

²² Garasky, Steven, Kassim Mbwana, Anne Chamberlain, Nicole Bowman, Carolyn Corea, Samuel Ampaabeng, Luke Patterson, Cassandra Mickish-Gross. *Feasibility of Tribal Administration of Federal Nutrition Assistance Programs – Final Report*. Prepared by IMPAQ International, LLC for the U.S. Department of Agriculture, Food and Nutrition Service, April 2016.

²³ NCAI, *Fiscal Year 2018 Indian Country Budget Request*, pg. 95.

²⁴ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 6-10.

²⁵ For example, the Community Reinvestment Act of 1977, Pub. L. No. 95-128, allows for Small-Business and Small-Farm Loans for agricultural production, yet is underutilized for this purpose in Indian Country.

²⁶ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 10-13.

²⁷ Oversight Hearing on Improving and Expanding Infrastructure in Tribal and Insular Communities Before the Subcomm. on Indian, Insular and Alaska Native Affairs of the H. Comm. on Natural Resources, 115th Cong. (Mar. 9, 2017) (testimony of Victoria Kitcheyan, Great Plains Area Representative, National Indian Health Board), available at: http://democrats-naturalresources.house.gov/imo/media/doc/testimony_kitcheyan1.pdf; citing Indian Health Service, 2016 Indian Health Service and Tribal Health Care Facilities' Needs Assessment Report to Congress, July 6, 2016, available at: https://www.ihs.gov/newsroom/includes/themes/newihstheme/display_objects/documents/RepCong_2016/IHSRTC_on_FacilitiesNeedsAssessmentReport.pdf

²⁸ Department of Health and Human Services – Indian Health Service, *Fiscal Year 2017 Justification of Estimates for Appropriations Committees*, January 2016, p. CJ-169, available at: <https://www.ihs.gov/budgetformulation/includes/themes/newihstheme/documents/FY2017CongressionalJustification.pdf>.

²⁹ NCAI, *Fiscal Year 2017 Indian Country Budget Recommendations: Upholding the Promises, Respecting Tribal Governance: For the Good of the People*, Feb. 2016, pgs. 88-89, available at: <http://www.ncai.org/resources/ncai-publications/indian-country-budget-request/fy2017>.

³⁰ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 13-17.

³¹ Food and Agriculture Organization of the United Nations, *FAO's role in Research and Extension*, May 2017, available at: <http://www.fao.org/research-and-extension/en/>.

³² National Sustainable Agriculture Coalition, *Research, Extension, and Education*, May 2017, available at: <http://sustainableagriculture.net/our-work/issues/research-extension-education/>.

³³ NCAI, *Fiscal Year 2018 Indian Country Budget Request*, pg. 95.

ENDNOTES

³⁴ The 2014 Farm Bill included language that added new 1994 institutions and reauthorized TCU operating funds, endowment, institutional capacity building grants, research grants, and the Essential Community Facilities Programs.

³⁵ NCAI *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 17-20.

³⁶ Intertribal Timber Council, *2007 Strategic Planning & Interim Action Plan*, Sept. 2006, available at: http://www.itcnet.org/about_us/.

³⁷ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 20-30.

³⁸ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 30-31.

³⁹ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 31-32.

⁴⁰ U.S. Department of Agriculture Risk Management Agency, *Agent Locator Tool*, available at: <http://prodwebnlb.rma.usda.gov/apps/AgentLocator/#/>.

⁴¹ USDA Risk Management Agency, *Insurance Providers Directory for 2017 Reinsurance Year*, available at: <https://www3.rma.usda.gov/tools/agents/companies/>.

⁴² NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pg. 32.

⁴³ NCAI, *Fiscal Year 2018 Indian Country Budget Request*, pg. 92.

⁴⁴ The provisions within the proposed Indian Agriculture Development Trust Fund best reside within the Miscellaneous Title as it covers many programs and authorities in other titles.

⁴⁵ This office would be in addition to the USDA Office of Tribal Relations which is now a permanent office within the Office of the Secretary.

⁴⁶ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pgs. 31-37.

⁴⁷ NCAI, *Farm Bill Reauthorization Tribal Recommendations 2013*, pg. 32.

GLOSSARY

1994	Tribal College and University Land Grant Institutions	CRP	Conservation Reserve Program
2501	Outreach and Technical Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers Program	CRP-TIP	Conservation Reserve Program – Transitions Incentives Program
ACEP	Agricultural Conservation Easement Program	CSFP	Commodity Supplemental Food Program
ACRE	Average Crop Revenue Election	CSP	Conservation Stewardship Program
AI/AN	American Indian/Alaska Native	DEIP	Dairy Export Incentive Program
AIARMA	American Indian Agricultural Resource Management Act of 1993	DPDP	Dairy Product Donation Program
AGR	Adjusted Gross Revenue	DPPSP	Dairy Product Price Support Program
AGR-L	Adjusted Gross Revenue - Lite	ECP	Emergency Conservation Program
AMS	Agricultural Marketing Service	EFRP	Emergency Forest Restoration Program
APHIS	Animal and Plant Health Inspection Service	ELAP	Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish
ARC	Agriculture Risk Coverage	EPA	Environmental Protection Agency
ARPA	Agricultural Risk Protection Act of 2000	EQIP	Environmental Quality Incentives Program
ARS	Agricultural Research Service, United States Department of Agriculture	ERS	Economic Research Service, United States Department of Agriculture
AWEP	Agricultural Water Enhancement Program	ERME	Extension Risk Management Education
B&I	Business and Industry Program	FACA	Federal Advisory Committees Act
BCAP	Biomass Crop Assistance Program	FAS	Foreign Agricultural Service, United States Department of Agriculture
BFRDP	Beginning Farmer and Rancher Development Program	F2S	Farm To School
BIA	Bureau of Indian Affairs	FCA	Farm Credit Administration
BLM	Bureau of Land Management	FCIC	Federal Crop Insurance Corporation
CBO	Congressional Budget Office	FCS	Farm Credit System
CCC	Commodity Credit Corporation	FDA	Food and Drug Administration, Department of Health and Human Services
CDFI	Community Development Financial Institutions	FDPIR	Food Distribution Program on Indian Reservations, United States Department of Agriculture
CF	Community Facilities	FFAR	Foundation for Food and Agriculture Research
CFP	Community Food Projects	FFVP	Fresh Fruit and Vegetable Program
CFR	Code of Federal Regulations	FINI	Food Insecurity Nutrition Incentive Grant Program
CIG	Conservation Innovation Grants	FmHA	Farmers Home Administration, United States Department of Agriculture
COOL	Country of Origin Labeling	FMPP	Farmers Market Protection Program
CNAFR	Council for Native American Farming and Ranching	FMLFPP	Farmers Market and Local Food Promotion Program
CSP	Conservation Security Program	FNCS	Food, Nutrition, and Consumer Services

GLOSSARY

FNS	Food and Nutrition Service, United States Department of Agriculture	OASDFR	Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers
FSA	Farm Service Agency, United States Department of Agriculture	OREI	Organic Agriculture Research and Extension Initiative
FSIS	Food Safety Inspection Service, United States Department of Agriculture	OSEC	Office of the Secretary, United States Department of Agriculture
FSMA	Food Safety Modernization Act	OTR	Office of Tribal Relations, Office of the Secretary, United States Department of Agriculture
HELIC	Highly Erodible Land Conservation	PACA	Perishable Agricultural Commodities Act
HFFI	Healthy Food Financing Initiative	PPQ	Plant Protection and Quarantine
HFRP	Healthy Forests Reserve Program	PLC	Price Loss Coverage
IHS	Indian Health Service, United States Department of Health and Human Services	PSA	Packers and Stockyards Administration
IFAI	Indigenous Food and Agriculture Initiative	PVPA	Plant Variety Protection Act
IAC	Intertribal Agriculture Council	RBDG	Rural Business Development Grants
ITC	Intertribal Timber Council	RBEG	Rural Business Enterprise Grant
LFDP	Livestock Forage Disaster Program	RBOG	Rural Business Opportunity Grant
LIP	Livestock Indemnity Program	RCPP	Regional Conservation Partnership Program
LFPP	Local Foods Promotion Program	RD	Rural Development Agency, United States Department of Agriculture
LPRA	Livestock Price Reinsurance Agreement	REAP	Rural Energy for America Program
LRP	Livestock Risk Protection	RHS	Rural Housing Service
MAP	Market Access Program	RMA	Risk Management Agency, United States Department of Agriculture
MILC	Milk Income Loss Contract Program	RMAP	Rural Microentrepreneur Assistance Program
MPP	Margin Protection Program	RUS	Rural Utilities Service, Rural Development, United States Department of Agriculture
NAP	Noninsured Crop Disaster Assistance Program	SARE	Sustainable Agriculture Research and Education
NASS	National Agricultural Statistics Service, United States Department of Agriculture	SCBGP	Specialty Crop Block Grant Program
NCAI	National Congress of American Indians	SCO	Supplemental Coverage Option
NEPA	National Environmental Policy Act	SFMNP	Senior Farmers Market Nutrition Program
NIFA	National Institute of Food and Agriculture, United States Department of Agriculture	SNAP	Supplemental Nutrition Assistance Program
NOP	National Organic Program	SRA	Standard Reinsurance Agreement
NPDES	National Pollutant Discharge Elimination System	SS	Sacred Site
NRCS	Natural Resources Conservation Service, United States Department of Agriculture	SSDPG	Small Socially Disadvantaged Producer Program
OAO	Office of Advocacy and Outreach	STAX	Stacked Income Protection Plan

GLOSSARY

SURE	Supplemental Revenue Assistance program
SUTA	Substantially Underserved Trust Area
TAP	Tree Assistance Program
TANF	Temporary Assistance for Needy Families
TAP	Tree Assistance Program
TEFAP	The Emergency Food Assistance Program
TEK	Traditional Ecological Knowledge
USDA	United States Department of Agriculture
USFS	United States Forest Service
VPA-HIP	Voluntary Public Access and Habitat Incentive Program
VAPG	Value Added Producer Grant
WEP	Water and Environmental Program, Rural Development, United States Department of Agriculture
WHIP	Wildlife Habitat Incentive Program
WIC	Special Supplemental Nutrition Program for Women, Infants, and Children
WRP	Wetlands Reserve Program

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Janie leads the Indigenous Food and Agriculture Initiative's partnership with the Shakopee Mdewakanton Sioux Community's Seeds of Native Health campaign. With a leading gift from Seeds of Native Health, Janie and her team is conducting a landmark project to develop a long-needed, comprehensive set of model food and agriculture codes to be customized and adopted by tribal nations. Additionally, the SMSC and IFAI are partnering with the Corporation for National and Community Service to create a cadre of 21 "Native Food Sovereignty Fellows." IFAI is recruiting, training, deploying and supervising the work of these VISTA volunteers in 10 tribal communities.



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SHAKOPEE MDEWAKANTON SIOUX COMMUNITY



The Shakopee Mdewakanton Sioux Community is a federally recognized, sovereign Indian tribe located southwest of Minneapolis/St. Paul. Making its top priority to be a good neighbor, the SMSC is one of the top philanthropists in Minnesota and donates more to charity than any other Indian tribe in America. It also focuses on being a strong community partner and a leader in protecting and restoring natural resources. More information is available at ShakopeeDakota.org.

SEEDS OF NATIVE HEALTH



Seeds of Native Health is the Shakopee Mdewakanton Sioux Community's philanthropic campaign to improve Native American nutrition and food access. Launched in 2015, the \$10 million campaign has provided grants to local communities and funded research, education, and capacity-building efforts. Partners include the American Diabetes Association, American Heart Association, AmeriCorps VISTA, Better Way Foundation, the Federal Reserve Bank of Minneapolis's Center for Indian Country Development, First Nations Development Institute, MAZON: A Jewish Response to Hunger, the Notah Begay III Foundation, the University of Arkansas School of Law's Indigenous Food and Agriculture Initiative, and the University of Minnesota. More information is available at SeedsofNativeHealth.org.



Seeds *of* Native Health

A Campaign for Indigenous Nutrition

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