

# GAINING GROUND

A Report on the 2018 Farm Bill Successes for Indian Country and Opportunities for 2023



Prepared by

**Erin Parker, Carly Griffith Hotvedt, et al.**

Indigenous Food and Agriculture Initiative



Commissioned by the **Native American Agriculture Fund** and  
**Shakopee Mdewakanton Sioux Community**  
in support of the Native Farm Bill Coalition

Unless otherwise credited, photos were provided by Mary Belle Zook and Erin Parker, Indigenous Food and Agriculture Initiative; Lexie Holden, Intertribal Agriculture Council, U.S. Department of Agriculture and Shakopee Mdewakanton Sioux Community.

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A Report on the 2018 Farm Bill Successes for Indian Country and Opportunities for 2023



Authored by:

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Indigenous Food and Agriculture Initiative

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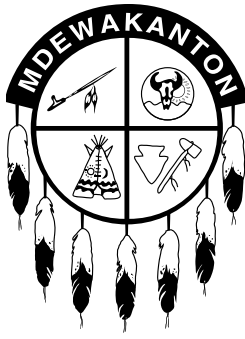
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Tribes are not truly sovereign unless we are also food sovereign. The Native Farm Bill Coalition represents the most successful effort ever created in Indian Country to give us more tools to achieve and maintain our food sovereignty, from protecting and improving nutrition assistance, to expanding the Buy Indian program and allowing Tribal self-administration of other federal programs. As we emerge from the COVID-19 pandemic, we need to continue to strengthen the Native agricultural and forestry sectors. Gaining Ground outlines critically important opportunities to build on the progress the Coalition made in the 2018 Farm Bill and improve Native agriculture and nutrition for the betterment of the entire country.”

## KEITH B. ANDERSON

*Chairman | Shakopee Mdewakanton Sioux Community  
Co-chair, Native Farm Bill Coalition (2017-2019)*



When folks hear the term ‘Farm Bill,’ they might think it only has relevance in the lives of our nation’s farmers and ranchers. In reality, if you eat, the Farm Bill affects you. With jurisdiction over programs ranging from crop insurance to commodities, federal nutrition to conservation, the Farm Bill has major implications for the types of programs and levels of funding our communities are able to access. Although the first Farm Bill was passed in 1933, Native Americans were not included until 1949, and were only meaningfully included from 1977 onward. Each successive Farm Bill presents an invaluable opportunity to advocate for the needs of Tribal communities across Indian Country. In 2018, the Native Farm Bill Coalition advocated for, and ultimately achieved, the most inclusive Farm Bill ever with 63 Tribal-specific provisions. Yet, much work remains to be done for our Native American producers. Along with our partners from the Shakopee Mdewakanton Sioux Community, the National Congress of American Indians, and the Indigenous Food Agriculture Initiative, we continue to uplift the voices and lived experiences of Indian Country’s producers. Policy made without the input of Tribal communities is policy made to us. We must continue our advocacy and education work before elected and appointed federal officials and their staff if we are to continue seeing policy made by us, for us. We continue the mission we were tasked with 35 years ago—to ensure that Tribal priorities are reflected in the Farm Bill, and Native producers have a meaningful voice in the development of the laws and regulations that not only govern the agriculture industry, but also the health and well-being of our communities.”

## KARI JO LAWRENCE

*Mandan, Hidatsa, and Arikara Nation  
Executive Director | Intertribal Agriculture Council*

NCAI is excited to further the work of the Native Farm Bill Coalition and to stand alongside our partners as we advocate for Indian Country’s food and economic sovereignty. With the success of the 2018 Farm Bill efforts and important advocacy over the last several years, it is clear that the collective strength of our Tribal Nations leads to mending broken promises and showing what we as sovereigns can achieve for our citizens and generations to come. When the federal government works with us as governmental partners, we can continue to build a bright future for food and agriculture sovereignty in Indian Country. Gaining Ground provides a strong roadmap for Tribal Nations as we work together on the 2023 Farm Bill and beyond.”

## FAWN SHARP

Quinault Indian Nation

*President* | 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.”

## CODY DESAUTEL

Confederated Tribes of the Colville Reservation

*President* | Intertribal Timber Council

There is no other piece of legislation quite like the Farm Bill: it shapes all of federal farm and food policy, and its authorities have tremendous reach. As we saw in the 2018 Farm Bill, this significant legislation also has numerous opportunities for Indian Country agriculture, including a strong acknowledgment of Tribal sovereignty and the power of Tribal governments to express that sovereignty in the space of food and agriculture for the benefit of their citizens, producers, and communities. The Indigenous Food and Agriculture Initiative is proud to serve as NFBC’s research partner, helping to empower Tribal Nations and illuminate the unique needs of Native food producers in Indian Country.”

## ERIN PARKER

*Executive Director* | Indigenous Food and Agriculture Initiative





Indian Country is a leading force in American agriculture. There are more than 80,000 individual Native producers who contribute \$3.5 billion to the industry across the Native American land base, totaling some 110 million acres. Native food and agriculture play a key role in Tribal sovereignty, which cannot truly be attained without food sovereignty.

However, despite recent progress to restore Native food systems, many Tribes still rely heavily on federal programs to feed their citizens. One in four Native Americans rely on federally supported nutrition assistance programs for survival. Native producers face huge obstacles in accessing U.S. Department of Agriculture (USDA) programs. While federal rural development and conservation programs have made some inroads into Indian Country through targeted cost-share programs and rural development infrastructure investments, challenges remain. And these widespread disparities have only grown during the coronavirus pandemic.



For these reasons, Indian Country has an enormous interest in the Farm Bill. This massive piece of legislation funds and sets policy on a wide variety of national programs ranging from nutrition and agriculture to conservation and forestry. The Native Farm Bill Coalition was launched in 2017 by the Shakopee Mdewakanton Sioux Community, the Intertribal Agriculture Council, and the National Congress of American Indians, with the Indigenous Food and Agriculture Initiative serving as the Coalition's official research partner. With more than 270 members, the NFBC brings together the voices of Tribes, intertribal organizations, other Native organizations, and non-Native allies around the country to advance investments in Native agriculture production and advocate for Indian Country's interests in federal food, agriculture, nutrition, forestry, and conservation policy.

Our collaborative efforts resulted in the inclusion of 63 separate provisions directly impacting Indian Country in the 2018 Farm Bill. These provisions range from strengthening Tribal self-governance and the management of nutrition programs to investing in economic development opportunities.

This success is due to our coalition of Tribal leaders, Tribal organizations, and allies coming together with a strong, united voice. This report identifies potential opportunities to build on the progress made in 2018 and highlights Indian Country's unique priorities within each of the Farm Bill's titles.

There is still much to be done to ensure parity and enhanced opportunities for Tribes and Native producers in the upcoming Farm Bill. These opportunities would increase food security and access to fresh, healthy, and traditional foods; strengthen Tribal, regional, and rural economies; increase Tribal self-governance opportunities; and more.

In the face of adversity and ever-changing markets, Tribes and Tribal producers stay committed to ensuring their families, communities, and nations have access to the food and fiber necessary to thrive.

We hope this report elevates Indian Country's voice in the deliberations on the new Farm Bill and contributes to Native peoples' continued progress in achieving self-reliance and food sovereignty.

Kari Jo Lawrence  
*Co-Chair, Native Farm Bill Coalition*  
*Executive Director*  
*Intertribal Agriculture Council*

Cole Miller  
*Co-Chair, Native Farm Bill Coalition*  
*Vice-Chairman*  
*Shakopee Mdewakanton Sioux Community*

Wáꞩ, Hello,

Across Indian Country, more than 80,000 Native farmers and ranchers support their communities and families through food and fiber production totaling \$3.5 billion each year. Despite the growing strength of Indian Country agriculture, we know the unique needs of Tribal Nations and Native producers in USDA programs have historically been overlooked, leaving Native farmers, ranchers, and nutrition programs without the critical support they need.

That narrative started to change in 2017, when the Shakopee Mdewakanton Sioux Community (SMSC), the Intertribal Agriculture Council (IAC), the National Congress of American Indians (NCAI), and the Indigenous Food and Agriculture Initiative (IFAI) as the Coalition's official research partner came together to create the Native Farm Bill Coalition (NFBC). This nationwide effort to give Indian Country a strong united voice on federal policy related to agriculture, nutrition, and rural development saw historic success in the 2018 Farm Bill, with 63 Tribal specific provisions included in the final legislation. These efforts opened new sources of federal support for Native farmers and ranchers and brought self-governance opportunities for Tribes to USDA for the first time.

We know that the 2018 Farm Bill was just the beginning of the work that needs to be done to fully have Native farmers and ranchers supported by federal farm and food policy. In 2018, Native American Agriculture Fund (NAAF) made a historic investment in the work of the NFBC to ensure that the Coalition could build on that progress in future Farm Bills. This report, discussing 2018's success and looking forward to what Indian Country might achieve in 2023, is part of that effort. We are proud to support the work of the NFBC to ensure Indian Country agriculture has a sustained voice in ongoing federal farm and food policy.

Linhlhít, Thank you,



Toni Stanger-McLaughlin, J.D. (Colville),  
CEO  
*Native American Agriculture Fund*





Photo credit: U.S. Department of Agriculture





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# INTRODUCTION



Photo credit: U.S. Department of Agriculture

As the original stewards of the land and water on this continent, Indigenous people have been involved in agriculture and food systems from time immemorial.

Traditional and culturally relevant foods for Tribal Nations across this continent have long been carefully cultivated and celebrated by Tribes and used to nourish Native peoples and communities. Thousands of years of Indigenous land stewardship helped diverse ecosystems flourish. From the abundant biodiversity of the tall grass prairies and the high deserts of the Southwest, to the deeply forested woodlands of the South and Southeast and the rich coastal waters to the East and West, Indigenous people maintained deep and significant relationships with land and food systems.

Today's agricultural systems in the United States are built on this foundation. Colonization of Native lands separated Indigenous people from these traditions in favor of "farming," fundamentally ignoring the sustained agricultural endeavors Indigenous people had been engaged in here for centuries. As we pointed out in 2017's *Regaining Our Future* report, this essentially created a "tale of two worlds" for Indian Country's relationship with farming and ranching, featuring a rich history of agricultural involvement on one hand, and on the other, federal policies that completely disconnect Tribal Nations and Indigenous people from those well-established agricultural practices.<sup>1</sup>

In recent years, that narrative has started to change. Utilizing self-determination and related authorities that have been hard-won, Tribes have been investing deeply in agriculture and food systems across Indian Country.

*As the original stewards of land on this continent, Indigenous people have been involved in agriculture and food systems from time immemorial.*

## 2017 Census of Agriculture Update

American Indian/Alaska Native (AI/AN) farms make up 3% of all farms in the United States.



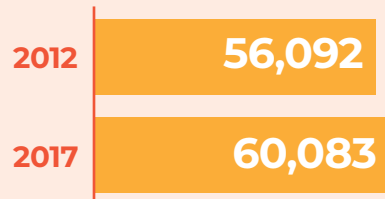
Market value of agricultural products sold by AI/AN producers increased 9.12% from \$3.24 billion in 2012 to \$3.5 billion in 2017.

Source: USDA National Agricultural Statistics Service

## Number of Farms Counted with an AI/AN Producer



### NUMBER OF FARMS WITH AI/AN OPERATOR



**7% increase** in number of farms counted with an AI/AN producer from 2012 to 2017.



**24%**

Fruit and tree nut farming increased 2% from 1,853 farms counted in 2012 to 2,302 farms counted in 2017



**34%**

Sheep and goat farming increased by 34% from 6,817 operations counted in 2012 to 9,137 operations counted in 2017.



**20%**

Beef cattle ranching and farming increased by 20% from 20,617 ranches counted in 2012 to 24,744 ranches counted in 2017.



**20%**

Greenhouse, nursery, and floriculture farming increased by 20% from 650 counted in 2012 to 779 counted in 2017.

Source: USDA National Agricultural Statistics Service



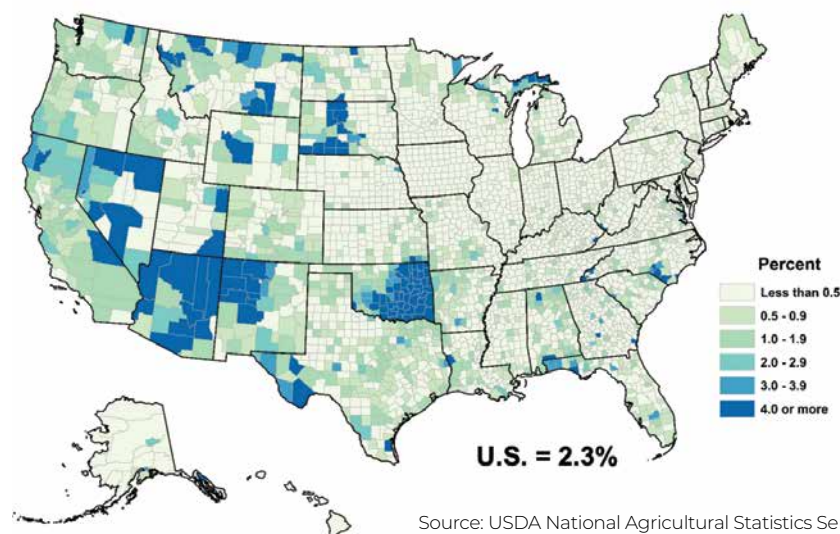
Photo credit: U.S. Department of Agriculture

These efforts are growing Tribal economies, improving food access for Tribal citizens, building strong infrastructure in rural Tribal communities, and reconnecting cultural food traditions that are thousands of years strong. The growth in Indian Country food systems and agricultural production over the last 10 years has been significant. Even during the challenges presented by the coronavirus pandemic, which disproportionately impacted Indian Country both in terms of illness and food insecurity, Tribal Nations and Native producers have

continued to invest in food systems to improve Tribal economies and feed Tribal communities. The last National Census of Agriculture reflects that growth, with increased counts of Tribal farmers, ranchers, and producers across all categories of census data. To continue that forward momentum, however, Indian Country must continue to be represented in all U.S. Department of Agriculture (USDA) programs and authorities. That representation is most significantly impacted by one piece of federal legislation: the Farm Bill.

## American Indian and Alaska Native Producers, 2017

### American Indian Producers as a Percent of Total



Source: USDA National Agricultural Statistics Service

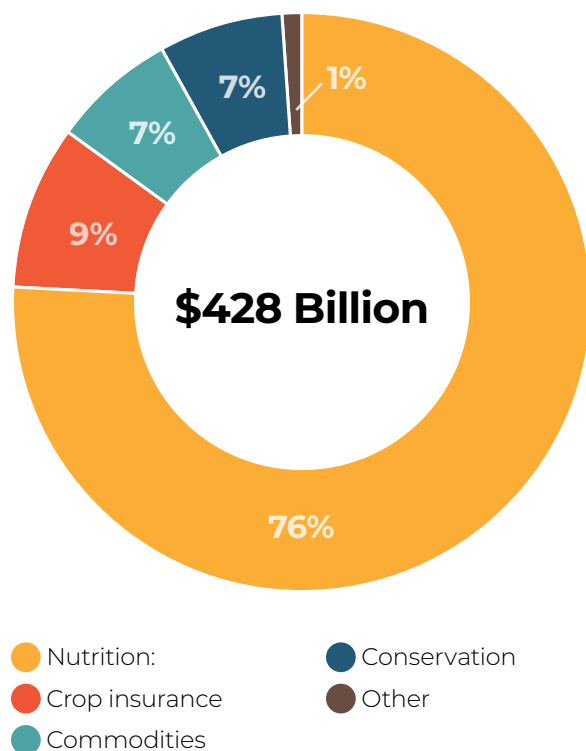
### Top States: Farms with American Indian Producers

Oklahoma	13,935
Arizona	11,729
New Mexico	6,211
Texas	4,883
California	2,153
Montana	1,696
Missouri	1,322
Oregon	1,104
Arkansas	1,098
Washington	1,049
Alabama	1,042

## WHAT IS THE FARM BILL?

The Farm Bill is the single most significant piece of legislation passed by Congress to support agriculture and food systems in the United States. This massive omnibus legislation, which is set to renew every five years, provides support for the majority of USDA's extensive programs. The most recent Farm Bill, the Agricultural Improvement Act of 2018 ("2018 Farm Bill") was signed into law in December 2018 and represented \$428 billion in farm and food program support.<sup>2</sup>

### 2018 Farm Bill Outlays, 2018-2023



Source: USDA Economic Research Service

The first Farm Bill was the Agricultural Adjustment Act of 1933 and 18 Farm Bills have followed since then, shaping America's food and agricultural policy. The Farm Bill has changed and expanded significantly over the course of its history: to put it in perspective, the 1933 Farm Bill covers 25 pages of text<sup>3</sup> focused on commodity prices and credit, while the most recent 2018 Farm Bill covers

*Typically, Indian Country has largely been left out of federal food and farm policy in this key piece of legislation—but that changed in the 2018 Farm Bill.*

807 pages of text and provides support for everything from commodities to specialty crops. Today's Farm Bills typically have 12 titles, each representing a different subject matter area in food and farm policy. These titles are: Commodities, Conservation, Trade, Nutrition, Credit, Rural Development, Research, Forestry, Energy, Horticulture, Crop Insurance, and Miscellaneous. Essentially, the Farm Bill sets the stage for American food and farm systems and has been vital for the nation's agricultural stability over time.

Despite this long history, Indian Country has largely been left out of federal food and farm policy in this key piece of legislation—but that changed in the 2018 Farm Bill, when Indian Country came together with a strong, unified voice for the first time.

## GIVING INDIAN COUNTRY A VOICE: THE NATIVE FARM BILL COALITION

To fully realize opportunities for Indian Country in federal law and policy, the Native Farm Bill Coalition (NFBC) formed in 2017 as the largest-ever coordinated effort in Indian Country around federal food, agriculture, and nutrition policy. The NFBC was co-founded by the Shakopee Mdewakanton Sioux Community (SMSC), the Intertribal Agriculture Council (IAC), the National Congress of American Indians (NCAI), and the Indigenous Food and Agriculture Initiative (IFAI) as the Coalition's official research partner. Since its launch, the NFBC has grown to include more than 270 Tribal Nations, intertribal organizations, and non-Native ally organizations.



The 2018 Farm Bill was truly a watershed moment for Indian Country agriculture. With 63 positive, Tribal-specific provisions included in the final legislation, Indian Country experienced an unprecedented level of success in seeing Tribal priorities realized in federal agricultural policy. Indian Country gained significant ground in 2018, with final legislation that opened new market opportunities for Native producers, created new pathways for Tribal voices to be prioritized and included in USDA programs, and recognized Tribal sovereignty through increased Tribal parity as well as the application of self-determination opportunities to USDA for the first time in history.

The 2023 Farm Bill is an opportunity to build on that progress. With the 2018 Farm Bill set to expire on September 30, 2023, work on the next iteration of the Farm Bill has already begun. The NFBC will continue to give Indian Country a strong voice in the Farm Bill process.

This report summarizes specific opportunities for Indian Country in each Farm Bill title. Some of these opportunities are remaining from the 2018 Farm Bill process, while some are wholly new. In all cases, potential changes identified here would enhance Tribal Nations' and Native producers' access to important USDA programs and authorities that build communities, create jobs, grow economies,



Photo credit: U.S. Department of Agriculture

feed people, safeguard natural resources, and prioritize Tribal sovereignty.

Throughout this report, recommendations and suggested legislative language are included from Native Farm Bill Coalition founding members and partners, like the Intertribal Agriculture Council (IAC), National Congress of American Indians (NCAI), and Intertribal Timber Council (ITC). These organizations have been consistently strong and stalwart voices on federal agricultural and environmental policy impacting Indian Country for decades, and as founding members of the Native Farm Bill Coalition, their recommendations continue to be at the forefront of Indian

Country's agricultural policy work. Additional opportunities highlighted here also come directly from individual Native farmers and ranchers, Tribal leaders and Tribal government staff, Indian Country food and nutrition professionals, and individual Tribal citizens.

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*The 2018 Farm Bill was truly a watershed moment for Indian Country agriculture.*

TITLE I:

# COMMODITIES



Photo credit: U.S. Department of Agriculture



**T**itle I of the Farm Bill is the Commodities Title, which covers revenue support for farmers who grow more than 20 different widely produced and traded crops, including: wheat, oats, barley, corn, grain sorghum, long-grain rice, medium-grain rice, seed cotton, soybeans, other oilseeds, peanuts, pulse crops (dry peas, lentils, chickpeas), dairy, and sugar.<sup>4</sup> Title I also provides agricultural disaster protection.

This includes programs like the **Market Assistance Loan (MAL)** program, which provides financing and a guaranteed floor price for the commodity. Producers are offered a nine-month non-recourse loan at a commodity-specific, statutorily fixed rate for the harvested crop.<sup>5</sup> The harvested crop is collateral for the loan, and the producer can opt to forfeit the crop to USDA in lieu of repayment, establishing the price guarantee. The 2018 Farm Bill raised the MAL rates for barley, corn, grain sorghum, oats, extra-long staple cotton, rice, soybeans, dry peas, lentils, and chickpeas. The 2018 Farm Bill also removed the payment limitations for MAL program benefits. Both changes were intended to increase participation by producers. To benefit from the MAL program, Tribal producers must review the statutory rates and remain knowledgeable about market price as fluctuations occur. Since the rates are crop dependent, producers must track each crop independently.

MAL is part of a two-tiered revenue support program system in the Commodities Title, which was continued in the 2018 Farm Bill.<sup>6</sup> This includes MAL, along with a second tier made up of the **Price Loss Coverage (PLC)** and **Agricultural Risk Coverage (ARC)** programs. Eligible commodities are similar but slightly different for MAL, PLC, and ARC, so producers must carefully track the “covered commodities” for each program. For PLC and ARC, these include the products listed above, apart from sugar and dairy products, which have their own

programs. Covered commodities except seed cotton, plus upland cotton, extra-long-staple cotton, wool, mohair, and honey are eligible for MAL.

Base acres continue to be the basis for PLC and ARC payments. A producer must own or rent base acres to participate in the program, and payments are made proportional to base acres as opposed to the harvested crop. A producer must have a minimum of 10 base acres to be eligible for ARC and PLC payments, except for socially disadvantaged farmers, and starting with the 2018 Farm Bill, beginning and veteran farmers and ranchers. The 2018 Farm Bill also added that a farmer can combine base acres from all farms they have an interest in to meet the minimum participation acreage. Sec. 1102(b) of the 2018 Farm Bill reduced payment eligibility for some farms by making base acres that were planted in grass or pasture, and adjacent crop land left idle or fallow during January 1, 2009, through December 31, 2017, ineligible for PLC or ARC payment during the life of the 2018 Farm Bill. Those acres may have been eligible for an \$18/acre payment under the Grassland Conservation Initiative under Title II. These acres remain eligible as base acres under future farm bills.

The **Sugar Program** remains the same as under the 2014 Farm Bill with the only change being a 5% increase in the MAL rate for cane and refined beet sugar.

The 2018 Farm Bill renamed and made changes to the dairy program. The current **Dairy Margin Coverage (DMC)** program offers producers margin protection levels based on historic milk production. The 2018 Farm Bill lowered premium rates for the first 5 million pounds of milk coverage, increased the range of coverage available on the first 5 million pounds, and allowed producers to cover more of their milk production, now up to 95% of historical base production. Dairy producers may now

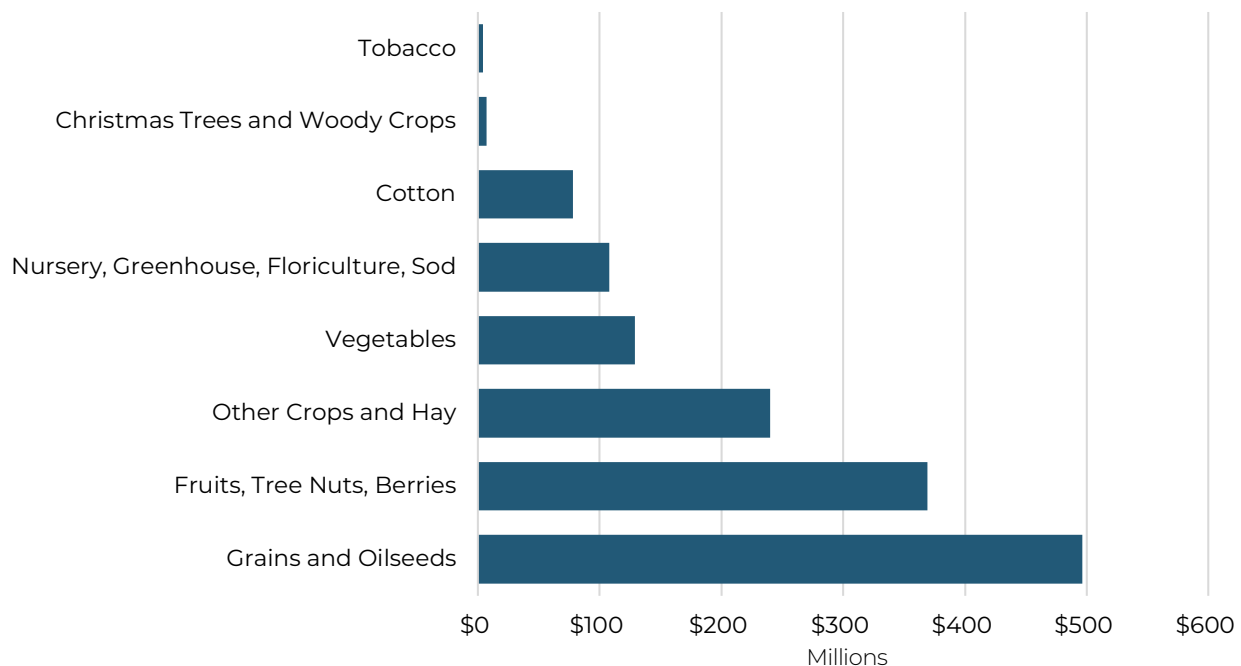
also participate in both DMC and the Livestock Gross Margin-Dairy insurance program under the crop insurance title. Producers must choose margin coverage levels as well as make premium payments. The 2018 Farm Bill repealed the Dairy Product Donation Program and establishes a **Milk Donation Program** to reimburse costs of donations of fluid milk that producers, processors, and cooperatives make to food banks and feeding organizations.

The 2018 Farm Bill also amended the four disaster assistance programs that were made permanent in the 2014 Farm Bill: 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). Finally, the **Noninsured Crop Disaster Assistance Program** is and has been permanently available for all commodities not covered by crop insurance.

Tribes and individual Native producers participating in Title I farm programs must keep an eye on the payment limitation provisions of current and future Farm Bills as many voices within farm policy debates have targeted payment limitations. Currently, farming operations legally organized as corporations or limited liability companies are considered to be one person for the purposes of payment limitations. General partnerships and joint ventures are not considered a separate person, and instead each member of the partnership or joint venture has an individual payment limitation. Therefore, Tribes and individual Tribal producers operating as a partnership or joint venture must also pay attention to any suggested changes to this interpretation since it could significantly impact payment limitations for the farming operation.

## Native American-Operated Farms Value



Source: USDA National Agricultural Statistics Service (2017)



## WHY THIS MATTERS TO INDIAN COUNTRY

More than half of all agricultural income in Indian Country comes from livestock production and commodity crops. As of 2017, Indian Country had 24,744 Native-operated beef cattle ranches, accounting for more than 75% of total Native farms and ranches.<sup>7</sup> Oilseed, grain, and other commodity crop production makes up an additional 17% of all Native-operated farms today.<sup>8</sup> This makes the Commodity Title's Livestock Indemnity and other disaster programs very important to Indian Country farms and ranches. In addition to Indian Country's own commodity production, Tribal lands are also frequently leased to non-Native farmers and ranchers who are also growing or raising agricultural products that fall under Commodity Title

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*More than half of all agricultural income in Indian Country comes from livestock production and commodity crops.*

programs,<sup>9</sup> tying their success to continued timely lease payments for Tribal Nations.

In recent years, Native producers have been deeply and negatively impacted by ongoing droughts, flooding, and supply chain issues brought on by the pandemic and related issues. Full access to all Commodity Title programs, particularly disaster assistance programs that help producers weather storms, both literal and figurative, is essential to continued stability in Indian Country's agricultural economy.



Photo credit: U.S. Department of Agriculture

## 2018 FARM BILL PROGRESS

Indian Country saw one notable point of progress in the Commodities Title in 2018:

### **Sec. 1501 – Supplemental Agricultural Disaster Assistance**

Adds Tribes and Tribal organizations to definition of an eligible producer for the program. Prior to the 2018 Farm Bill, a Tribe or Tribal organization would not have qualified for this disaster assistance program. With this change, Tribally-owned commodity operations that are otherwise eligible can finally take advantage of this program.

### **Sec. 1501 Livestock Eligibility – Post-Farm Bill Update**

In the 2018 Farm Bill process, the NFBC recommended that the definition of eligible livestock for this program be amended to include more livestock that are commonly only raised by Tribal producers, such as reindeer, caribou, and elk. The 2018 Farm Bill did not address this, but subsequent USDA regulations in 2020 did, so these livestock are now covered. This inclusion was possible because the law gives the Secretary of Agriculture discretion to do so.

## EXAMPLES OF OPPORTUNITIES IN THE COMMODITY TITLE

Although a few updates were made during the 2018 Farm Bill process or afterwards which addressed better access to Commodity Title programs for Native producers, many of the opportunities outlined in the previous Farm Bill process remain points of potential progress today. These include:

### **Livestock Indemnity Payments**

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 an animal reintroduced into the

wild by the federal government or protected under federal law or from “adverse weather.” The payment rates are set at a rate of 75% 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% loss-rate coverage for Tribal-owned livestock to address the lack of land equity that exists for Tribal producers, except for allotted lands. This heightened rate of loss coverage is also needed due to the unique challenges Tribal livestock producers face in obtaining secure markets for their animals, thus causing a generally lower rate of market return for their livestock.

### Livestock Forage Disaster Program

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 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% 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 FSA office (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 also established by the national FSA office 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 FSA office 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 if 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 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 conduct an assessment based on Census data and Census of Agriculture data to determine the population makeup of the county FSA should also 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.

### Trees

The 2014 Farm Bill created additional assistance for tree owners which is included in 7 U.S.C. Section 9081(e). Under this provision, Tribal producers should be made eligible for 80-90% 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 that 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.

### Geographically Disadvantaged Farmers and Ranchers

The “Geographically Disadvantaged Farmers and Ranchers” section in prior Farm Bills was

amended in 2014 by changing the effective dates of the provisions to “2009 and each succeeding fiscal year.” Codified at 7 U.S.C. Section 8792 are provisions for geographically disadvantaged farmers or ranchers in “insular areas” to 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. This section should be amended to ensure that Tribal governments, Tribal entities, and Tribal producers are 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 FSA, 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.<sup>10</sup>

TITLE II:

# CONSERVATION



Photo credit: U.S. Department of Agriculture



Conservation programming has been part of the Farm Bill since its first iteration, the Agricultural Adjustment Act of 1933, which was passed in the 1930s after environmentally unsound agricultural practices resulted in the Dust Bowl. Using authorities in that initial Farm Bill legislation, the forerunner to the Natural Resource Conservation Service (NRCS) worked with locally led Soil and Water Conservation Districts to help producers with conservation techniques, many which were specifically designed to halt erosion. Since that time, conservation program spending has grown approximately \$5 billion annually. This federal subsidization is almost universally necessary for farmers, who rarely, if ever, turn a profit from conservation practices. The NRCS has more than eight decades of working with American farmers to create a sustainable and efficient agriculture industry.

The Conservation Title of the 2018 Farm Bill accounted for 7% of the total Farm Bill budget, with \$60 billion of the total \$867 billion legislation. It also represented one of larger non-nutrition titles.<sup>11</sup> The Conservation Title aids producers and landowners in the implementation of proven conservation practices based on technical standards on agricultural and forest lands “to protect and improve water quality and quantity, soil health, wildlife habitat, and air quality.”<sup>12</sup> Programs under this title are designed to address working lands, forest lands, grasslands, and wetlands, including the protection of natural resources.

Despite significant debate between the House and the Senate versions of the 2018 Farm Bill,<sup>13</sup> ultimately, Congress preserved conservation programming across the Conservation Title with level funding as compared to the 2014 Farm Bill. However, working lands conservation programs saw reductions,<sup>14</sup> particularly in future funding for the **Conservation Stewardship Program**.<sup>15</sup> The **Conservation Reserve Program** continues

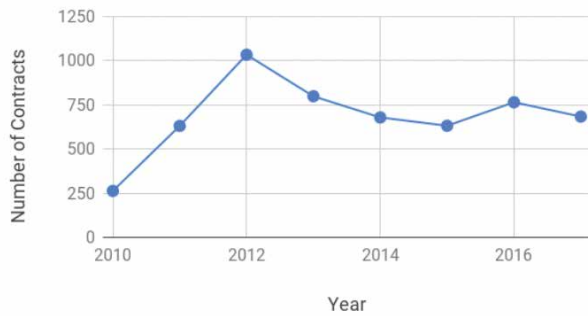
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*NFBC member Tribes have reported applying for EQIP irrigation project funding but failing to be awarded due to insufficient funding availability.*

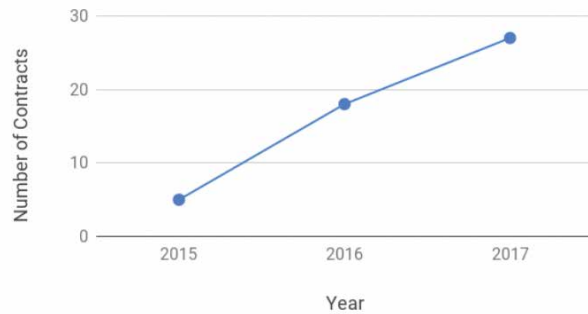
financial assistance to producers who meet stewardship requirements on agricultural and forest lands. The 2018 Farm Bill capped the total number of acres for enrollment at 25 million acres in 2021, expanding to 27 million acres in 2023. Additionally, the **Grassland Reserve Program** was merged with the **Conservation Reserve Program**, now known as **CRP Grasslands**, with 2 million acres set aside for CRP Grassland enrollment. Contract durations are 10 or 15 years.

The **Environmental Quality Incentive Program (EQIP)** received an increase in total funding up to \$2 billion in annual funding by 2023. The 2018 Farm Bill also established new EQIP Incentive Contracts but did not designate a specific amount of funding intended for the contracts. The 5% set-aside for beginning and socially disadvantaged producers established in the 2014 Farm Bill was retained in the 2018 Farm Bill, and improvements were made to the option for advance payments. The wildlife set-aside increased from 5% to 10%. The total maximum payment rate for EQIP remained consistent with the \$450,000 maximum set under the 2014 Farm Bill. EQIP Organic Initiative increased to \$140,000 over the five years of the anticipated length of the 2018 Farm Bill. EQIP also saw expanded eligibility to include states, irrigation districts, groundwater management districts, and other entities for water conservation and irrigation projects. Challenges remain in equity considerations as the 2018 Farm Bill was explicit in indicating that funding allocations to each state cannot be modified as a result of the new eligibility. NFBC member Tribes have reported applying for EQIP irrigation project funding but failing to receive

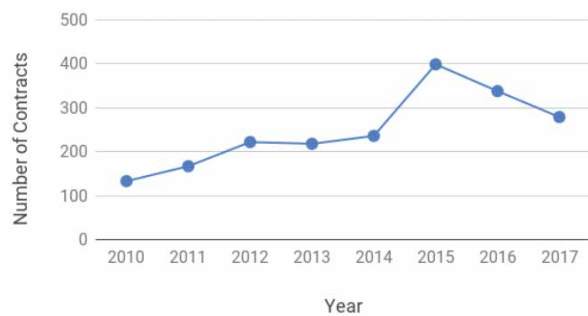
## Number of EQIP Contracts Received by American Indian/Alaska Native Operators



## Number of CSP Contracts Received by American Indian/Alaska Native Operators



## Number of RCPP Contracts Received by American Indian/Alaska Native Operators



Source: USDA Natural Resources Conservation Service

These charts show the number of USDA conservation program contracts awarded to farms with American Indian/Alaska Native (AIAN) operators over time.<sup>2</sup>

it due to insufficient funding availability to accomplish the intended eligible projects.<sup>16</sup>

The **Agricultural Conservation Easement Program** allows for permanent easements for restoration and permanent protection of on-farm wetlands and for the protection of eligible agricultural land to conversion for non-agricultural use. The 2018 Farm Bill clarified that “the purpose of protecting agricultural use by limiting nonagricultural uses applies specifically for those uses that negatively affect agricultural uses and conservation values.”<sup>17</sup> A “buy-protect-sell” provision was also added, allowing lands owned by an organization to be enrolled in the program subject to transfer of ownership to a farmer or rancher within three years of the initial enrollment. The non-federal share requirements were also amended for additional flexibility.<sup>18</sup>

The **CLEAR 30 Pilot** in the 2018 Farm Bill allows for 30-year conservation easements called Clean Lakes Estuaries and Rivers (CLEAR 30). This section of the law allows the Secretary to enter into one or more agreements with Tribes under CLEAR 30. Registration for the program began in summer 2020, with contracts effective in October 2020. Water quality practices enrolled under the **Conservation Reserve Program (CRP)** or **Conservation Reserve Enhance Program (CREP)** that are expiring can be enrolled in the CLEAR 30 Pilot.

The **Regional Conservation Partnership Program** in Farm Bill 2018 expressly includes Tribes who own or operate eligible land as eligible producers. It is now a stand-alone program and allocated \$300 million dollars annually. Provisions authorizing enhanced alternative funding arrangements were included, up to 15 projects. The national funding pool was eliminated, requiring applicants to seek funding from the Critical Conservation Area funding pool or the State/Multistate funding pool.<sup>19</sup>

Additional updates from the 2018 Conservation Title include the **Conservation of Private Grazing Lands Program**, which was extended at \$60 million annually through 2023 and included a provision requiring education and outreach via partnerships with land grant universities and NGOs.<sup>20</sup> The 2018 Farm Bill also extended the **Grassroots Source Water Protection Program** through 2023 at level funding from the 2014 Farm Bill.<sup>21</sup> Similarly, the **Voluntary Public Access and Habitat Incentive Program** was extended through 2023 and received an additional \$3 million set-aside to encourage public access on land covered by wetland ACEP.<sup>22</sup> The **Small Watershed Rehabilitation Program** was also extended.<sup>23</sup>

The 2018 Farm Bill amended the **Soil and Water Resource Conservation Act** to require USDA to conduct a comprehensive appraisal of water, soils, and related natural resources by the end of 2022 and to complete the update of soil and water conservation programs by the end of 2023,<sup>24</sup> as well as to fund an increase for the Conservation Reserve Program and **Transition Incentives Program**. The funding, increased to \$50 million, includes up to \$5 million for outreach and technical assistance for the transfer of retiring agriculture land to new, beginning, or socially **disadvantaged producers. Certain producers who are classified as ‘beginning’ or ‘socially disadvantaged’ also received set-asides** through a 5% reauthorization to promote conservation access opportunities.

Finally, while authorized under the 2018 Farm Bill, the following provisions in the Conservation Title have yet to be implemented as of this writing: The CREP, which allows the Secretary to enter into cost-share agreements with Tribes and other partners. The USDA Farm Services Agency (FSA) website only recently listed Tribes as eligible partners with the federal government under the CREP program,

and to date no Tribe has entered a cost-share agreement. Guidance on the eligibility and Tribal opportunity has not been published or made available.

The USDA also has yet to provide guidance or regulations on the **NRCS Alternative Funding Arrangements (AFAs) for Tribes** authorized under the 2018 Farm Bill for either the CSP or the EQIP.

## WHY THIS MATTERS TO INDIAN COUNTRY

Historically, Tribal lands have suffered from a lack of conservation practices. This is in part due to lack of tailored federal legislation that incorporates the challenges and unique nature of Tribal agricultural lands across the country. Native Farm Bill Coalition (NFBC) members and stakeholders have identified the need for continued and increased funding for conservation programs as a critical priority to serve Tribal lands and as necessary to keep up not only with Tribal, but also national conservation needs.

Indian Country has expressed needs for improved conservation and land stewardship support from USDA via Congressional action for decades, but despite acknowledgment of these needs, federal action has not truly addressed the problem. A 1993 Senate hearing and report indicated that of 54 million acres of Tribally held lands, more than 75% of that land base was used for agricultural purposes.<sup>25</sup> Yet, more than 1.1 million acres stood idle, with 60,000 acres in Oklahoma alone out of production. The report also indicated the issues of Indian self-determined agricultural land management

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*Indian Country has expressed needs for improved conservation and land stewardship support from USDA via Congressional action for decades.*

were further compounded by a stagnant Bureau of Indian Affairs (BIA) budget and up to 50% vacancies in BIA full-time employee positions. This 1993 report, which is nearly 30 years old, remains the most recent comprehensive report on agricultural land status in Indian Country.

A chronically underfunded and understaffed BIA continues to block Native producers from meaningful access to NRCS programs today. Conservation easements on Tribal lands remain as challenging today as they were in 2017, when the *Regaining Our Future* report noted: *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.*

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### ***A chronically underfunded and understaffed BIA continues to block Native producers from meaningful access to NRCS programs today.***

*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. [...] 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.<sup>26</sup>*

While lands under a 10-year lease may theoretically be eligible for a 10-year NRCS contract, it is highly unlikely that a producer or lessee will be able to enroll leased land into

conservation programs with 10-year terms in a timely manner, especially considering the reported delays of BIA responsiveness to approve or certify the leased land as eligible for enrollment, with BIA delays of sometimes more than a year being reported by stakeholders and USDA local staff. Cross-jurisdictional issues with federal trust, reservation, and fee lands further challenge simplistic efforts to implement conservation practices. When federal policy continues to apply state and local standards to Indian Country lands where the same circumstances, markets, governance structures, and land holdings simply do not exist, Indian Country will continue to struggle with accessing critical conservation programs.

## **2018 FARM BILL PROGRESS**

### **Sec. 2304 – Establishment and Administration of Environmental Quality Incentive Program**

Moved to section 2304(d) and replaces the “opt-out” language with an assurance of notification of producers, per Note #16 in Title II - Conservation, Joint Explanatory Statement.

### **Sec. 2202 – Conservation Reserve Enhancement Program**

Allows the Secretary to enter into cost-share agreements with Tribes, and other partners, to carry out the conservation reserve enhancement program.

### **Sec. 2204 – Pilot Programs [Conservation Reserve Easements]**

Creates pilot project for 30-year conservation easements called Clean Lakes Estuaries and Rivers (CLEAR 30) practices. Requires Secretary to enter into one or more agreements with Tribes under CLEAR 30.

### **Sec. 2701 – Regional Conservation Partnership Program**

Expressly includes Tribes which own or operate eligible land as eligible producers for the Regional Conservation Partnership Program.



Photo credit: U.S. Department of Agriculture

**Sec. 2501(a) – Funding of Conservation Stewardship Program - Transition Incentives Program**

Increases funding to \$50 million, including up to \$5 million for outreach and technical assistance, for the transfer of retiring agriculture land to new and beginning or socially disadvantaged producers under the CSP Transition Incentives Program.

**Sec. 2501(d) – Assistance to Certain Farmers or Ranchers for Conservation Access**

Reauthorizes set-asides for beginning and socially disadvantaged farmers or ranchers at 5% (not the 15% level in the Senate bill).

**Sec. 2503(c) – Administrative requirements for conservation programs**

Requires USDA to enter into alternative funding arrangements for conservation programs under the CSP and EQIP.

## EXAMPLES OF OPPORTUNITIES IN THE CONSERVATION TITLE

IAC's recommendations for improved Conservation Programming include:

*The Grasslands Reserve Program leaves out permit-style range leases that aren't in contract form, which excludes acreage in Indian Country. Eligible acreage has to be in a producer's operation for a year prior to eligibility which causes a barrier to five-year lease contracts with the BIA, and has verbiage that excludes federally controlled lands.*

*NRCS Tribal Advisory Councils were established and Tribes actively participate in meetings with the State Conservationists and their staff. The Tribal Advisory Councils have facilitated collaboration between NRCS and Tribes. The*

last two spring meetings the Farm Production and Conservation mission areas required 2018 Farm Bill listening sessions with the Tribes nationwide to be held at the state level. Often Tribal Advisory Councils have been used as hosts for these meetings. Due to the prescribed nature of the information that is to be shared at the listening sessions, these sessions turn out to be agency updates and information sessions without true interaction with the USDA agencies and Tribes.

More Tribal representation is needed on local, county, and state boards that make critical decisions on allocation of funding and resource allocations.

Inconsistencies exist between USDA Agencies on how they handle and control land issues. For example, NRCS in North and South Dakota will approve an EQIP or CSP contract that is planned beyond a BIA Grazing Permit as long as the BIA Superintendent and Tribal Chairman or designated signatory sign off on the contract. On the other hand, FSA will not approve program participation or contracts for land under a permit or lease that runs outside of the term dates on the lease or permit agreements. For example, there is not one acre of BIA managed land eligible for the CRP Grasslands program to this point due to the inconsistency.<sup>27</sup>

#### **Conservation Reserve Program (CRP)**

Create a pilot program to explore the use of livestock to improve soil health in CRP fields and allow for a rental rate over and above the CRP payment to be made to the producer. Scientific studies have demonstrated the effect that a lack of animal impact can have on the soil. This program would seek to determine the impacts and benefits of this pilot program, for consideration in subsequent iterations of the Farm Bill or conservation legislation. Preference in the use of this land would be afforded 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**

Encourage and allow all beginning producers to participate in conservation programs and amend all conservation programs to incentivize beginning producers by removing the “one year of control” requirement.

[...]

#### **Contract/Program Term Length Flexibility**

Authorize alternative term length of programmatic enrollment or contract terms for improved flexibility on Tribal lands, specifically including Tribal trust or individually held trust or restricted leased lands.<sup>28</sup>

In December 2020, NCAI recommended to following priorities for future Conservation Titles that would enhance NRCS programming for Tribal producers:

- Provide full advance payments for socially disadvantaged producers.
- Remove/waive requirements of one-year prior control, the need for a Conservation Stewardship Program technical service provider.
- Compensation to former lessees of Tribal lands for the installation of existing conservation practices.<sup>29</sup>

#### **Alternative Funding Arrangements**

The 2018 Farm Bill requires the Secretary to enter into alternative funding arrangements (AFAs) with Tribal governments to carry out the Conservation Title programs. This provision needs more attention and improved implementation to ensure that each Tribal government is offered the opportunity for alternative arrangements. To date, no guidance has been issued to inform Tribal governments of the opportunity nor has internal instruction been provided to USDA employees on how to proceed with tribal AFAs.

## Alternative Models of Program Delivery—638, Other Flexibilities for Tribes

Applying “638” Self-Determination contract opportunities to Conservation Title programs would enable Tribal governments to directly administer Conservation Title programs to eligible Tribal producers in Indian Country. This is not only a strong acknowledgment of Tribal sovereignty, but it also places program access within easier reach for Native producers, because their Tribal governments deeply understand the land holdings issues that often prevent robust Native producer participation.

Additionally, allowing Tribes to enroll all or selected Tribal trust lands into conservation programs and act as a pass-through for federal funding to be provided to participating trust land lessees would also open conservation programming opportunities. Finally, Tribal Conservation Districts, if specifically included for alternate models of service delivery, could be eligible for direct funding support to serve Tribes and Tribal producers.

### Funding Flexibility

In other programs, Tribal governments are eligible to leverage federal funding from any other program including the Environmental Protection Agency, U.S. Fish and Wildlife, and Indian Health Service to meet the match requirement for federal programs. Full and robust application of this option for any Conservation Title program that requires a match percentage for participation would unlock conservation opportunities previously foreclosed to Tribes. Flexibility and waiver opportunities for Tribes and Tribal producer applicants for NRCS Cost Lists would also facilitate higher program access, as the lists are not accurate for projects conducted on reservations. This is due to a mismatch with NRCS rubrics of per state averages, which are based on the previous year’s pricing. Additionally, there are limited comparisons available for Indian Country

project cost estimates because few projects are completed in Indian Country. Project costs in Indian Country are also consistently higher due to material availability, labor costs, transportation to more rural/remote areas, and challenges in access to equipment/machinery on reservation. Flexibility within NRCS Cost Lists would help greatly.

Additional opportunities for Indian Country were discussed in the 2018 Farm Bill debate process, but not ultimately included in the final bill. They remain important opportunities for Indian Country, including:

### Soil and Water Resources Conservation

The 2018 House-passed Farm Bill amended Sec. 2408 to create a National Technical Committee that included Tribal agency representatives to advise the Natural Resources Conservation Service.<sup>30</sup>

### Extension and Enrollment Requirements of Conservation Reserve Program

The Senate-passed bill from 2018 amended Sec. 2101 to authorize a State or Tribe,<sup>31</sup> in consultation with FSA State Technical Committee, to submit a request to designate a **State Acres For Wildlife Enhancement (SAFE)** area. This would have required the Secretary to give priority to certain requests, including wildlife habitats for targeted species, where a commitment of funds for incentive payments is provided, and to maintain a regional balance when making designations.

### Wildlife Management

The 2018 Senate-passed Farm Bill also proposed to improve regulatory certainty under conservation programs by requiring the Secretary, at the request of a Tribe or other government, to provide technical and programmatic information regarding regulatorily required conservation practices that could be implemented by that producer.<sup>32</sup>



2018 NFBC priorities for the Conservation Title also remain applicable to future Farm Bills, as these opportunities have not been realized in federal policy. These include:

### Recognition of Traditional, Ecological, Knowledge-Based Conservation

Develop a new section of the Conservation Title to explicitly allow a Tribe or a group of Tribes within a state or region to develop traditional, ecological, knowledge-based (TEK) technical standards that will control the implementation of all conservation projects allowed under the Farm Bill. This new section would codify current NRCS practices that encourage TEK-based conservation and would further recognize the fact that Tribal jurisdiction and use of traditional practices to improve conservation project implementation are decisions best left to Tribal governments and individual Indian producers who live on those lands and are engaged in ongoing activities that are designed to improve environmental conditions, habitats, and their lands for agricultural purposes. These TEK-

based standards already have a solid scientific basis and are acknowledged by various federal research organizations and agencies. USDA has committed to recognizing TEK in the Department's 2022 Equity Action Plan; this current commitment centers around hiring individuals with TEK expertise.<sup>33</sup> Updated Farm Bill language would give USDA broader authority and ensure that TEK is permanently incorporated into all USDA programming.

Alternatively, authorize Tribes to engage in Alternative Funding Arrangements to specifically implement TEK practices under existing Conservation programs. Authorize individual applicants to request a waiver or alternative funding arrangement to implement TEK practices in NRCS programs if the Tribal jurisdiction where their lands for intended enrollment are located has not developed TEK standards adopted by USDA.

### Conservation Reserve Program (CRP) Land Availability for Beginning Tribal Farmers and Ranchers

Create a new section of the Conservation Title to allow the use of CRP land or other lands



engaged in conservation practices to be used by Tribal citizens 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

“Priority Resource Concerns” are currently defined by the Farm Bill as “a natural resource concern or problem, as determined by the Secretary, that— “(A) is identified at the national, State, or local level as a priority for a particular area of a State; and “(B) represents a significant concern in a State or region.”<sup>34</sup>

By amending this definition to include Tribes, Indian Country’s natural resource needs would no longer be wholly left out of this determination. This would facilitate more Tribally driven concerns to be addressed through NRCS funding, such as environmental disaster mitigation and Climate Smart investments for conservation improvements to infrastructure. Priority resource concerns like irrigation modernization and water access opportunities for agricultural production could also receive priority funding and consideration via this change in the law. This is particularly timely for many Tribes in the West, who are experiencing significant evaporation loss from open channel irrigation.

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

Create a new section of the Conservation Title or in sections related to eligibility determinations to ensure that lands held in common, such as reservation lands 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 CRP and Conservation Priority Areas. Due to the prolonged periods that Tribal lands and individual Indian-owned 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, all Tribal lands falling under the jurisdiction of the Bureau of Indian Affairs, Tribal governments, Tribal agricultural entities, and individual Tribal producers, landowners, or land operators should receive mandatory priority consideration for all conservation programs authorized in the upcoming Farm Bill.

Further priority should be given to beginning farmers and ranchers seeking to establish or reestablish working land activities on Tribal lands and commercial activities related to the reestablishment of working lands or the emergence of beginning farmers and ranchers who are Tribal citizens utilizing those working lands. In any ranking activity conducted by USDA 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 and ARMP Compliance

Ensure conservation activities will be required to be in conformance with the Tribal government’s Agricultural Resource Management Plan (ARMP), if one is in place, and that proper individuals or officials receive adequate notice of conservation activities.

## Recognizing Tribal Law Parity

Amend any reference to “state law” in the Conservation Title to say “State law or Tribal law” and any reference to “State technical committee” to “State technical committee or Tribal technical committee.”

## Tribal Technical Committee

Require each state conservationist to establish a separate Tribal technical committee, should any Tribal headquarters exist within their state boundaries or any land exist under the jurisdiction of Tribal governments or the BIA. 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 TEK 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. Require establishment of state-level intertribal, regional intertribal, and national Tribal advisory committees regarding conservation matters.

## No Additional Compensation for Expired Conservation Measures

When a conservation practice installed on Tribal or individual Indian-owned land expires, or when a lease/permit expires, do not require individual Tribal citizens, Tribal governments, or Tribal entities 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.

## NRCS Report on Natural Resource Inventory Investments Needs on Tribal Lands

Require NRCS to immediately develop a report to be delivered to all Tribal governments and

individual Indian producers identifying which Tribal lands still need proper Natural Resource Inventory funding support to perform soil and range surveys to create a baseline report of needs for said lands.

## Traditional Ecological Knowledge Consideration for Conservation Compliance

Consider TEK 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. USDA’s Equity Action Plan commits to hiring individuals with TEK expertise, which is a good first step.<sup>35</sup> Farm Bill language requiring consideration of TEK will ensure those new career staff with TEK expertise are able to fully realize the potential of their positions.

## BIA Actions Responsible for Non-Compliance, Deemed Approved Enrollment

Do not determine any Tribal landowner or operator of lands in violation of any term of a conservation program enrollment requirement when the BIA 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. Set a finite amount of time for BIA to consider conservation program enrollment and implement a “deemed approved” status at the expiration of the deadline to prevent undue delays in conservation program enrollment on Tribal lands.

## Environmental Quality Incentives Program (EQIP)—Tribal Priority and Reduced Barriers to Access

Give priority consideration to Tribal governments, Tribal entities, and individual Tribal landowners and operators to participate

in EQIP program activities, in addition to the 5% Tribal set-aside. 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 and individual Indian 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.

Reduce the years in production requirement to be eligible for EQIP for Tribal producers in order to maximize utility under BIA lease/agreement terms. New Tribal land lessees should be eligible to “tack” years of production eligibility to prior lease holder’s EQIP enrollment on the same parcel to continue EQIP conservation practices. Authorize full in-kind eligibility for EQIP match requirements for Tribal producers. Include compost application as an eligible EQIP practice. Tribal producers should be eligible for full advance payments for conservation practices.

**Tribal Parity in the Conservation Title**  
Include a provision in all sections of the Conservation Title 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” agricultural producers, the terms “Tribal” should 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 priority within the relevant section. Specific eligibility considerations for Tribally held trust lands should be reflected in Farm Bill provisions.

### Technical Assistance Funding for Tribal Governments and Organizations

Due to the relatively low use of all conservation programs on Tribal lands and individual Indian-owned land, give the Secretary the authority to create a permanent fund within the available technical assistance funding authorities, appropriations, and programs to ensure that Tribal governments, Tribal organizations, and Tribal landowners and producers throughout Indian Country—including in all Tribal areas of Alaska and Hawaii—have specialized technical assistance available on a continual basis. 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.

TITLE III:  
**TRADE**



Photo credit: U.S. Department of Agriculture

**T**rade has always been part of Indigenous lifeways. For thousands of years on this continent, Tribes established and participated in trade routes that moved all kinds of goods, especially food and agricultural products, in intertribal trade and commerce. Agricultural trade, both domestic and international, remains a vital piece of economic development efforts for all food industries across Indian Country as well as the rest of the United States.

The Farm Bill's Trade Title focuses on international agricultural trade. International trade represents a significant economic opportunity for U.S. producers, with U.S. agricultural exports totaling a record high of \$177 billion in 2021.<sup>36</sup> The USDA agency leading on these international efforts is the Foreign Agricultural Service (FAS).<sup>37</sup> Trade Title programs can be broadly divided into four categories: international food assistance programs, export credit support programs, export market development programs, and international science and technology development programs.<sup>38</sup>

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### *Trade has always been part of Indigenous lifeways.*

The Trade Title's international food assistance efforts, like the Food for Peace Program, are humanitarian aid programs that ship USDA foods worldwide to help support food security in other countries. These programs are designed not only to support food security abroad and American agricultural markets at home, but also serve as an entry point for U.S. producers to enter emerging international markets and build goodwill globally.

The Trade Title also provides supports to agricultural businesses and producers. These include the (1) **Foreign Market Development Program (FMDP)**, which focuses on trade

servicing and trade capacity building by creating, expanding, and maintaining long-term export markets for U.S. agricultural products; (2) **Emerging Markets Program (EMP)**, which helps U.S. organizations promote exports of U.S. agricultural products to countries that have — or are developing — market-oriented economies; and (3) **Technical Assistance for Specialty Crops (TASC)**, which funds projects that address sanitary, phytosanitary, and technical barriers that prohibit or threaten the export of U.S. specialty crops. Of all these supports, the Trade Title program currently providing the strongest support to Indian Country is likely the **Market Access Program (MAP)**. Through the MAP, FAS works directly with U.S. agricultural trade groups to build export markets for producers by reducing the costs of international marketing efforts. This can help producers access trade shows and international buyers they would not have been able to access before. Through MAP, the Intertribal Agriculture Council (IAC) has been able to offer Native producers export resources and access to markets for Native-produced products around the world through IAC's American Indian Foods Program (AIF).

## **WHY THIS MATTERS TO INDIAN COUNTRY**

Trade Title programs represent a significant opportunity for Indian Country producers and Tribally-owned food businesses who want to access international markets, where Native-produced foods are often seen as highly desirable and financially lucrative niche products. For example, Suquamish Seafoods, a subsidiary of the Suquamish Tribe, has exported geoducks to Chinese markets for the last 10 years.<sup>39</sup> These large clams, considered a delicacy in China, captured more than \$50 per pound in foreign markets for Suquamish Seafoods.<sup>40</sup> Despite the potential economic benefits of engaging in international trade,



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***Trade Title programs represent a significant opportunity for Indian Country producers and Tribally-owned food businesses who want to access international markets, where Native-produced foods are often seen as highly desirable and financially lucrative niche products.***

accessing international markets for any product is a challenging and complex process. Trading food products, which often have strict food safety and other regulatory protocols, adds additional challenges. With the resources and technical assistance that USDA programming can provide through Trade Title programs, the number of Tribal nations and Tribal producers accessing these profitable international markets can increase, improving economic realities across Indian Country.

One of the Trade Title programs that can provide that support to Indian Country is the Market Access Program (MAP), which supports and establishes U.S.-branded goods in foreign markets and provides various credit authorities for making sales in certain

foreign countries. This is a key support to all U.S. producers looking to navigate the complex system exporting goods to foreign markets, but it has been especially impactful to Native producers because of the critical export readiness training and assistance MAP provides. According to Latashia Redhouse, AIF Director at IAC, *MAP is critical funding to support IAC's deployment of services to companies interested in expanding into the international marketplace and provides a much-needed platform for Native American agriculture companies to share their story. Since our partnership in 1998, IAC has seen steady growth in global market share by our members and increased consumer interest in made/produced by American Indian trademarked products. As MAP cooperators, we are committed to continuously providing resources to our industry, trade, and consumers while promoting the premium and unique products that our constituents have to offer.*

With MAP funding, Native brands like Séka Hills of the Yocha Dehe Wintun Nation distribute premium specialty olive oil and wine to Japanese importers, retailers, and food service operations.<sup>41</sup> In 2019, when Séka Hills received MAP funding, they reported



immediate sales of \$5,000 while also projecting \$30,000 sales over the 12 months that followed.<sup>42</sup> Other Native-owned brands like Red Lake Nation Foods have also used MAP support to showcase their products in 2020 at Gulfood, the largest food and beverage trade exhibition in the world, and was able to record \$88,000 of first-time export sales. Arctic Circle Wild Seafood and Naknek Fisheries have also promoted their products internationally through IAC’s MAP efforts.<sup>43</sup> With more resources allocated to Trade Title programs like this through the Farm Bill, Indian Country’s international trade access—and the economic benefits that come with that access—will grow.

## 2018 FARM BILL PROGRESS

Indian Country gained one notable point of progress in the Trade Title of the 2018 Farm Bill:

### Sec. 3312 – Foreign Trade Missions

- *Requires the Secretary to seek to support greater inclusion and participation of Tribal agricultural and food products in federal trade activities, as well as greater participation of Native farmers, ranchers, and producers on international trade missions; and*

- *Requires a report to Congress within 2 years regarding the efforts of the agencies to increase Tribal inclusion on international trade missions.*

In implementing this section, the Farm Bill directs the Secretary to work with many additional departments, including the Departments of Commerce, State, Interior, and any other relevant federal agencies. This interagency collaboration is key to full implementation of this section, with so many authorities impacting international trade housed across federal departments. IAC has previously called for this kind of collaboration for that reason.<sup>44</sup>

Unfortunately, despite its inclusion in the 2018 Farm Bill, this provision has not yet been implemented. A survey of the international trade missions USDA sponsored in 2019 did not indicate any increase in Native producer participation,<sup>53</sup> and no report on these activities is publicly available as of the writing of this report. The delay in acting on this provision is administrative. The 2018 Farm Bill directs the Secretary to work with the Tribal Advisory Committee (TAC), enacted elsewhere in the 2018 Farm Bill,<sup>46</sup> to make sure Native producers have expanded access to international trade

missions. When the Farm Bill was signed into law in December 2018, the President issued a signing statement naming concerns with the TAC's constitutionality and directing USDA in 2018 not to implement that committee. Because the Farm Bill requires the Secretary to work with the TAC, this ban on implementing the TAC effectively stalled progress on this directive in the Trade Title at the same time. Despite the absence of the TAC, which will be further addressed in this report in Title XII: Miscellaneous, USDA can and should still seek to include more Native producers and Native food products in trade missions.

## EXAMPLES OF OPPORTUNITIES IN THE TRADE TITLE

### Expand MAP and Increase Opportunities and Access to Overseas Markets

Currently, MAP funding still reflects 2014 Farm Bill levels; therefore, despite the success that IAC has had in supporting Tribal producers in their export endeavors, they still only received approximately \$367,000 out of the almost \$176 million allocated to MAP recipients for 2022.<sup>47</sup> Substantially increasing the funding available to the IAC to coordinate and administer this program for Tribal audiences will allow more Tribal food and agriculture businesses to benefit from the program. The economic impacts of this work will help Tribal food economies and food businesses.

NCAI has previously expressed the following recommendation on expanding MAP: *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 Market Access Program to Tribal agriculture via the Intertribal Agriculture Council to support the*

*increasingly successful Native export activities and ensure continued success in exporting – and the related growth in jobs for American Indians and Alaska Native agriculture.*<sup>48</sup>

### Promote Tribal Parity in the MAP

The law currently defines an “eligible trade organization” for the purposes of participating in MAP as “(A) a United States agricultural trade organization or regional State-related organization that promotes the export and sale of United States agricultural commodities and that does not stand to profit directly from specific sales of United States agricultural commodities; “(B) a cooperative organization or State agency that promotes the sale of United States agricultural commodities; or “(C) a private organization that promotes the export and sale of United States agricultural commodities if the Secretary determines that such organization would significantly contribute to United States export market development.” To ensure that Tribal parity is included in this critical foreign market access authority, Tribal organizations and entities should be specifically called out in this definition alongside states.

### Supporting Unique Tribal Foods and Fighting Native Food Fraud

Native-produced food products, especially those food products that carry cultural significance and/or represent traditional foods, have become increasingly popular in both domestic and international markets in recent years. Indigenous foods are incredibly nutritious, something that Indigenous peoples have known from time immemorial. As consumers become more health-conscious, culturally significant foods—often low on the glycemic index, or foods with limited sugars and high healthy omega-3 fatty acids—only increase in demand. Unfortunately, an increase in demand also increases unscrupulous food business practices by entities that appropriate Indigenous foods and food culture by replicating and selling





unique Tribal food products. Food fraud of Native foods was an issue highlighted in the 2017 *Regaining Our Future* report,<sup>49</sup> and the disruption of the supply chain brought on by the coronavirus pandemic has only exacerbated this issue. Increasing online sales of foods have been associated with rising food fraud in international markets in the past,<sup>50</sup> and while the full scale of food fraud is unknown, many high-fraud items like olive oil, seafood, and honey are foods that are produced authentically by Native producers today, putting Native producers at additional risk of being impacted by food fraud.<sup>51</sup>

Changes in the Trade Title can help FAS to weed out fraudulent operators who appropriate culturally significant foods of Indigenous peoples and profit off this theft in the marketplace, enabling FAS to institute a system by which fraudulent foods that mimic Tribal foods and Tribal food businesses can be uncovered and prevented. Additional changes can ensure that Tribal producers and operators are given priority as producers of authentic products, not only for domestic distribution, but also internationally through MAP.

### Interdepartmental Coordination to Support Tribal Trade

The 2018 Farm Bill already requires the Secretary to engage in interdepartmental collaboration in order to increase Tribal producers' access to trade missions. With the continuing impacts of the coronavirus pandemic on Tribal producers and Tribal supply chains, reaching the true potential of this collaboration requires an established interdepartmental coordination group, created by the Trade Title and housed at USDA, with membership from the Departments of Commerce, State, Interior, and other relevant 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 recently created USDA Equity Commission should also have a representative on this committee, as well as a representative from the TAC (assuming USDA will seat it).

TITLE IV:

# NUTRITION



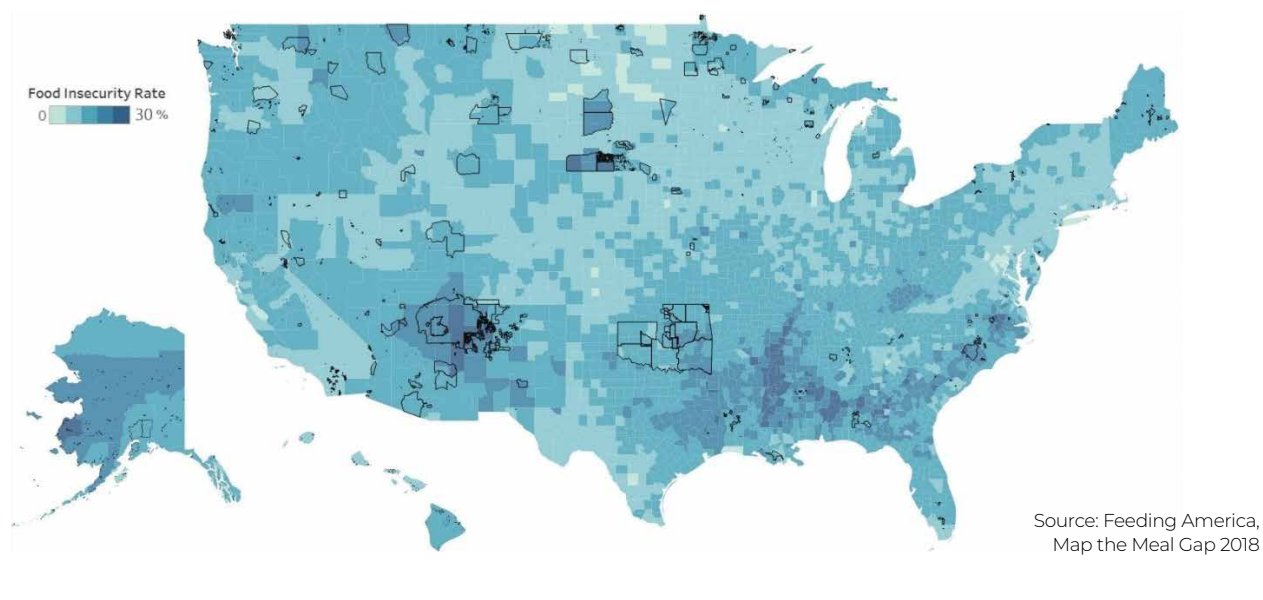
Photo credit: U.S. Department of Agriculture

The Farm Bill's Nutrition Title is the legislative vehicle for reauthorizing a number of domestic food assistance programs, which help millions of Americans put food on the table each month. The Farm Bill has been one of the primary pieces of authorizing legislation for nutrition and food assistance since the 1973 Farm Bill, which first expanded the Food Stamp Program to all 50 states.<sup>52</sup> Today, the modern iteration of food stamps, the **Supplemental Nutrition Assistance Program (SNAP)**, continues to be authorized in the Farm Bill, where it represents a significant portion of overall Farm Bill spending. SNAP is the largest federal food assistance program in terms of both spending and participation, but it is not the only food assistance program authorized in the Farm Bill, nor is it the only food assistance program of significance to Indian Country. The Nutrition Title also includes the **Food Distribution Program on Indian Reservations (FDPIR)**, **The Emergency Food Assistance Program**

**(TEFAP)**, the **Commodity Supplemental Food Program (CSFP)**, and many other food assistance programs. Altogether, the Nutrition Title programs represent 76% of total spending in the 2018 Farm Bill.<sup>513</sup>

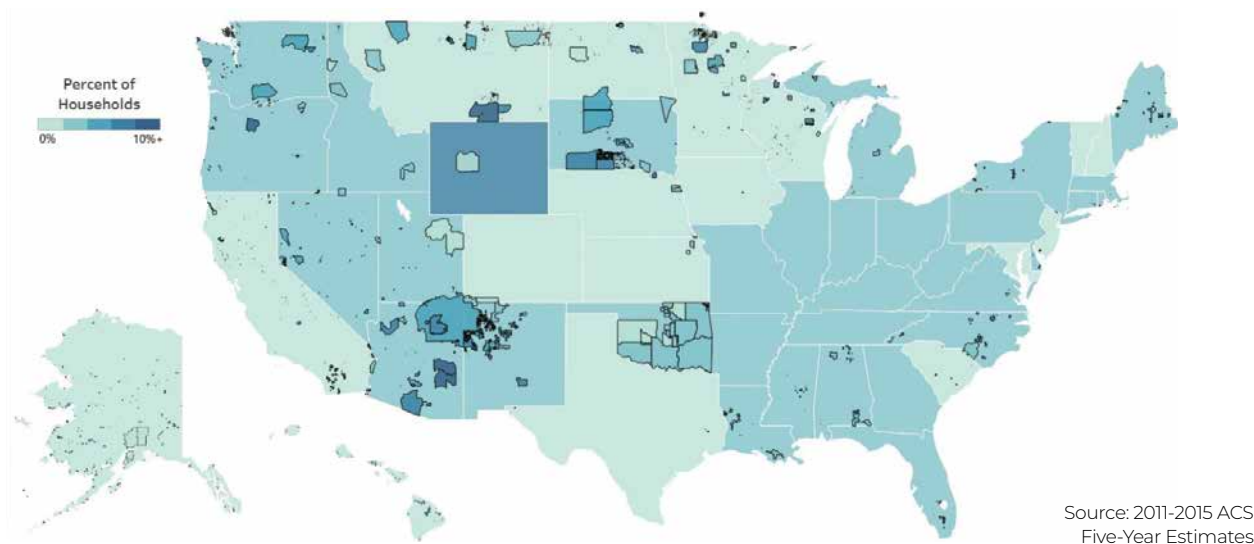
Because of the significant amount of Congressional spending in the Nutrition Title, its programs—especially SNAP—are always the subject of equally significant debate during Farm Bill years. The 2018 Farm Bill continued that trend, although the final bill made few overall changes to the program. Among other things, the **SNAP Employment and Training program** received additional funding support in 2018. The **FDPIR**, which serves approximately 90,000 people across Indian Country each month, saw a reduction of administrative cost-sharing for Tribes offering the program, along with an improved waiver process for Tribes who cannot meet cost-share and an improved ability to use other federal funds to meet the matching requirement.

## Food Insecurity in Tribal Communities



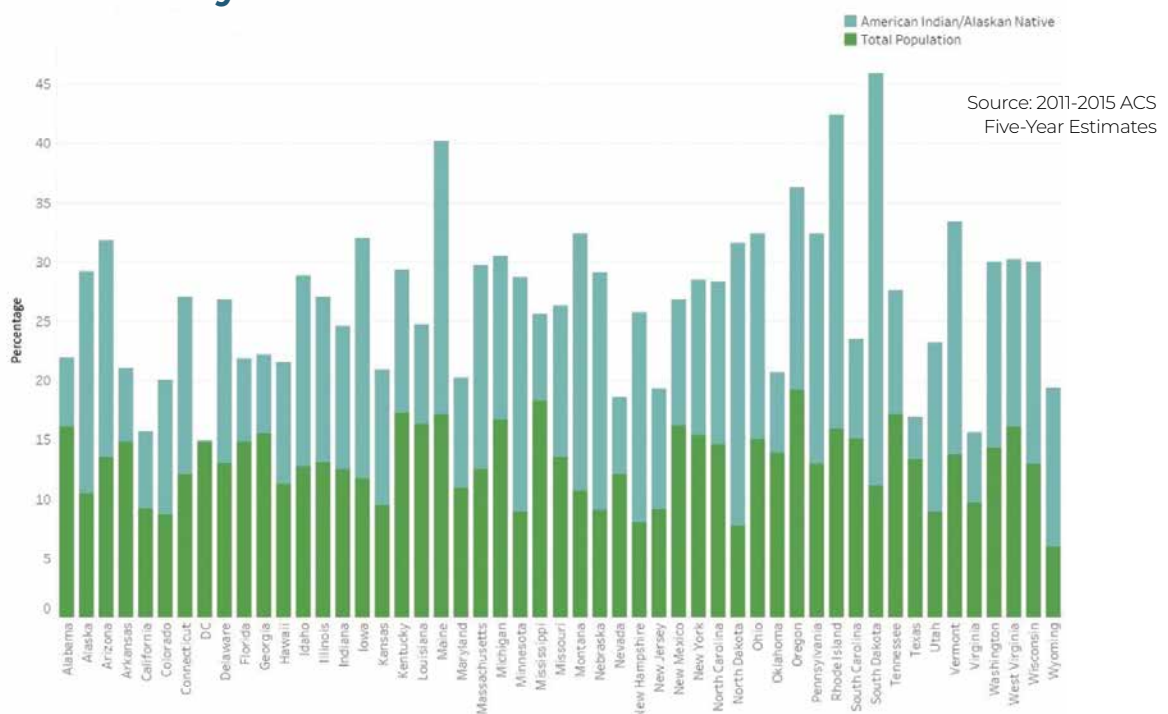
This map shows the food insecurity rate by county with an overlay of Tribal lands for reference. The map generally indicates higher rates of food insecurity on Tribal lands.

## Food Insecurity in Tribal Communities



A map comparing SNAP participation rates between States and Tribal entities. Tribal land areas often show higher rates of SNAP participation compared to each state as a whole.

## Food Insecurity in Tribal Communities



A chart comparing SNAP participation rates between total population in each state and the American Indian/Alaskan Native population. Bars are not stacked. The value for each bar is the corresponding number on the y-axis.

The 2018 Farm Bill also applied “638” self-determination contract authority to FDPIR for the very first time.

The 2018 Farm Bill also increased funding for the **TEFAP** and allowed for longer certification periods for the **CSFP**. The bill preserved the same funding levels for the **Senior Farmers Market Nutrition Program**, but reduced spending for **Community Food Projects** by \$4 million. Congress renamed and extended mandatory funding to the **Gus Schumacher Food Insecurity Nutrition Incentive Program**, which previously had been known colloquially as FINI. The new name honors the life and work of former USDA Undersecretary and Wholesome Wave co-founder Gus Schumacher. FINI was originally authorized in 2008 and provides competitive grants to organizations working to improve low-income households’ access to fresh fruits and vegetables. The 2018 Farm Bill clarified that Tribes can use other federal funds as a matching requirement for this program.

## WHY THIS MATTERS TO INDIAN COUNTRY

Food insecurity in Indian Country is too high. At least 25% of all American Indian and Alaska Native people in the country were relying on SNAP to meet their monthly dietary needs as of 2018,<sup>54</sup> and the pandemic’s impacts on food insecurity have only exacerbated that need. The Native American Agriculture Fund (NAAF), in conjunction with the Food Research Action Center (FRAC) and IFAI, conducted household-level survey work in Tribal communities during the pandemic and found that rates of household food insecurity in Native households from March 2020 to April 2021 were generally at “shockingly higher rates than the general public and white households.”<sup>55</sup> Among the respondents to the NAAF survey, “half (49%) experienced food insecurity from March 2020 through April 2021 and 25% experienced very low food security.”<sup>56</sup> These rates are in some cases

## 638 Self-Determination FDPIR Map



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***Tribal governments work daily across Indian Country to repair what colonization tried to destroy and reconnect their citizens and communities with revitalized Tribal food systems.***

nearly double what other household survey results revealed about the general public's food insecurity during the same time periods.<sup>57</sup>

The NAAF survey and report also illuminated the incredible innovation of both Native producers and Tribal governments in response to the pandemic and showed a significant shift during the survey time period in food access for Native communities. Overwhelmingly, survey respondents across Indian Country reported shifting away from food assistance sources that were not provided by their Tribal governments, indicating in part what anyone who works or lives in Indian Country has always known: in times of crisis, Tribal citizens look to their Tribal governments for assistance. Tribal governments harness the inherent power of their sovereignty as nations to solve the deep problems in modern Tribal food systems. Tribal governments work daily across Indian Country to repair what colonization tried to destroy and reconnect their citizens and communities with revitalized Tribal food systems.

As Tribal Nations continue to reimagine their food systems and utilize their sovereignty to enhance their citizens' access to traditional, culturally appropriate, Native-produced or fresh foods, USDA's suite of food assistance programs can provide an underutilized pathway to improve both Tribal food access and Native food economies simultaneously. The FDPIR "638" demonstration projects for food procurement showcase the extraordinary potential of these food assistance institutional markets to change both food access and Native food producer market opportunities at the

same time. When FDPIR "638" applications first opened, IAC shared:

*Imagine a family, opening a box to find nutritious food grown and raised by Tribal producers in their community and close by. The FDPIR (Food Distribution Program on Indian Reservations) 638 Self-Determination Demonstration Project may begin to help make this dream a reality for Tribes already involved in the FDPIR program.*

*The United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) is soliciting proposals from eligible Tribal Organizations to participate in a demonstration project to purchase agricultural commodities for the FDPIR program. This demonstration project is authorized under the Agriculture Improvement Act of 2018. Participation in this demonstration project is available to Tribal Organizations that administer FDPIR. Tribal organizations will be selected on a competitive basis and funding will be awarded through a self-determination contract.*

*FDPIR 638 is an important acknowledgment of Tribal sovereignty that opens the door to food purchasing decisions that allow for more traditional, Tribally-grown, local and regionally produced foods.<sup>58</sup>*

Since that time, seven self-determination contracts have been awarded to eight Tribal Nations and Tribal organizations for the FDPIR procurement project, including one intertribal partnership between the Menominee Tribe and Oneida Nation of Wisconsin, as well as individual contracts with the Red Cliff Band of Lake Superior Chippewa, the Little Traverse Bay Bands of Odawa Indians, the Lummi Nation, the Alaska Native Tribal Health Consortium (ANTHC), the Chickasaw Nation, and the Mississippi Band of Choctaw Indians. Initial contract awards for these Tribes and Tribal organizations totaled \$3.5 million,<sup>59</sup> all of which supports Tribal and locally produced foods moving into the FDPIR food packages of



Photo credit: U.S. Department of Agriculture

those Tribes. Additional funds appropriated by Congress since those contracts were awarded has enabled USDA to extend existing contracts and consider opening new applications for additional participation.<sup>60</sup>

Legal constraints, both statutory and regulatory, prevent Tribal governments and producers from taking full advantage of more opportunities, like the FDPIR food sourcing program, to expand food access and food economies. The Farm Bill's Nutrition Title represents the first step for Tribal governments who want to open up that access. Key changes here in the 2018 Farm Bill have already made a huge difference for Indian Country. Future changes could build upon that firm foundation.

## 2018 FARM BILL PROGRESS

There were several important Tribal-specific provisions enacted in the 2018 Farm Bill,

including one of two places in this legislation where “638” self-determination contracting authority was extended to USDA programs for the first time.

### Sec. 4003(a) – Food Distribution Program on Indian Reservations

Authorizes two-year carryover funding for FDPIR, replacing the previous one-year funding. Requires USDA to pay 80% of administrative costs for FDPIR, with a 20% Tribal match. USDA must waive the matching funds requirement if a Tribe is financially unable or substantially burdened by the match requirement. A Tribe may use other federal funding sources to meet the match requirement. USDA may not limit the administrative costs for a Tribe that receives a waiver. Adds “regionally grown” to the traditional foods provision purchase provision for FDPIR. Requires the Secretary to purchase traditional foods that can be procured “cost-effectively.”

### **Sec. 4003(b) – Food Distribution Program on Indian Reservations - Demonstration Project for Tribal Organizations**

Authorizes \$5 million for demonstration projects for Tribal organizations to enter into “638” self-determination contracts to procure foods for FDPIR packages. Only funds specifically appropriated in advance for this purpose may be used to carry out this demonstration project.

### **Sec. 4203 – Service of Traditional Foods in Public Facilities**

Adds state, county, and local education programs as eligible for the donation of traditional foods provision into public and nonprofit facilities.

### **Sec. 4205 – The Gus Schumacher Food Insecurity Nutrition Incentives**

Tribal agencies can use other federal resources and funds (including IHS funding) to meet the Food Insecurity Nutrition Incentive program matching requirement.

### **Sec. 4206 – Micro-Grants for Food Security**

Provides money to states to award grants of up to \$5,000 to individuals and up to \$10,000 to eligible entities, including Tribes and Tribal organizations, for small-scale gardening, herding, and livestock operations directed to food insecure communities.

## **EXAMPLES OF OPPORTUNITIES IN THE NUTRITION TITLE**

### **Food Distribution Program on Indian Reservations**

Tribal leaders and the National Association of Food Distribution Programs on Indian Reservations (NAFDPIR) alike have recommended multiple changes to improve FDPIR’s ability to serve participants across Indian Country. These include:

- **Expand and/or make permanent the 2018 Farm Bill’s “638” program for FDPIR**

The FDPIR “638” self-determination contracting project has so far been a

resounding success. Participating Tribes are reporting higher take rates of Tribally-procured foods among their FDPIR participants and higher engagement with the program. USDA has already committed to expanding Tribal self-determination through this and other authorities in the Department’s Equity Action Plan.<sup>61</sup> The promise of this commitment can be fully realized through updates in the 2023 Farm Bill. If Congress made this procurement opportunity permanent and granted it mandatory funding in the Farm Bill, more Tribal Nations would be able to participate and take advantage of this pathway to improved Tribal food access.

Tribal Nations have also called for a full expansion of “638” authority for the entirety of the FDPIR program, not just the sourcing opportunity from Sec. 4003(b) of the 2018 Farm Bill. This would facilitate full Tribal authority over this program for the first time, and enable Tribal Nations to offer the program in a way that best fits the needs of their community.

- **Reduce the matching requirement from 80% to 0%**

The 2018 Farm Bill reduced Tribal matching requirements for FDPIR by 5%, which was good progress. However, the initial NFBC priority was a 0% match, which was called for by NAFDPIR and Tribal leaders. This would eliminate the need for Tribes to seek waivers and for USDA to process those waivers, reducing administrative burdens and expanding FDPIR access.

- **Continue the new nutrition education funding requested by USDA in recent appropriations bills**

In FY22 appropriations, USDA-FNS requested and received additional nutrition education funds for FDPIR. Continuing to provide these funds to Indian Tribal Organizations (ITOs) which run FDPIR, especially on a non-competitive basis, will improve the health of FDPIR participants across Indian Country.



- **Create a pilot program to enable ITO direct sourcing of locally produced herbs and spices as part of nutrition education opportunities**

Currently, USDA sourcing of foods for FDPIR does not include any flavorful herbs or spices, such as cilantro, parsley, oregano, thyme, rosemary, and so forth. These foods lack the nutritional value that would enable sourcing for the food package. However, these foods also greatly enhance the flavor of meals prepared with FDPIR foods. A pilot or demonstration project to provide ITO funding to source these herbs and spices would improve participant engagement with the foods provided and serve as a valuable part of nutrition education at the same time.

- **Clarify that Tribal Nations on international boundary lines with bands or communities across international borders may have food products sourced from those bands—especially traditional and culturally significant food products—be considered domestic for the purposes of FDPIR sourcing**

Some Tribal Nations participating in programs like FDPIR have identified opportunities to trade food products with sister communities that reside within other countries today, but prior to colonization, had been part of the same Tribal Nation for thousands of years and remain connected regardless of the modern existence of international boundary lines. Some of these Tribes may have treaty rights that facilitate easier trade across international borders with their communities across these arbitrary boundaries. Agricultural trade is a valuable part of economic development for all communities and Tribes are no exception. Those nations whose communities are bifurcated by modern international boundaries would have expanded opportunities to move their own food products into programs like FDPIR if waiver authority existed within USDA to enable these products to be designated domestic in these limited circumstances.

- **Issue waiver authority for USDA-FNS to allow FDPIR sites to be able to provide non-domestically sourced produce in emergency situations**

The pandemic has greatly impacted supply chains and markets across the country. FDPIR sites, particularly those in the Southwest, have had to turn away deliveries of fresh produce in the last two years because vendors mistakenly provided them with non-domestic product. These foods then go to waste with no nutritional benefit to anyone. Many other fresh products have simply been unable to be sourced domestically and are persistently unavailable, limiting FDPIR participants' access to fresh produce. Domestic sourcing is the goal, but when this is impossible due to unforeseen and emergency circumstances, Tribes are the ones penalized. Under the current law, USDA's hands are tied. Waiver authority—even temporary authority—for USDA to enable ITOs to receive non-domestic products when no other products are available on the market would ensure uninterrupted access to healthy foods for FDPIR participants.

- **Provide additional infrastructure dollars to FDPIR for necessary upgrades to facilities and equipment**

FDPIR had not received any significant influx of infrastructure dollars since the 2008 Farm Bill, before the 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorized \$50 million in dedicated infrastructure funds, solely to help ITOs develop necessary infrastructure in response to the coronavirus pandemic. These funds helped ITOs respond to this global emergency, but not all FDPIR sites received funding. Some sites did not apply to the fund because they felt neighboring Tribes' needs were greater. A dedicated influx of infrastructure dollars that reaches every ITO is still needed.

This need could also be met through better opportunities for FDPIR sites to access



existing USDA funding, like the **Community Facilities (CF)** program operated through USDA's Rural Development agency. These funds have proved difficult for FDPIR sites to receive in the past. Although Tribes are eligible applicants and current Tribal applicants would likely receive priority points under the current RD Social Vulnerability scoring criteria,<sup>62</sup> a Tribal set-aside in the program in combination with the long-awaited creation of the RD Tribal technical assistance office promised by the 2018 Farm Bill would significantly bolster FDPIR sites' chances of accessing CF funds.

- **Include more traditional and Tribally-produced foods in FDPIR on a regional basis**

Although there is a traditional foods purchasing provision in the Farm Bill for FDPIR, it has only ever been authorized at \$5 million, which is not enough to support large amounts of traditional food purchasing.

When this provision initially passed, it was also initially interpreted by USDA as being the only source of funding USDA could use to purchase traditional foods. This meant that when the \$5 million expired, no further traditional foods were purchased. USDA and Tribal leaders have clarified this through consultation, and USDA has been purchasing increasing numbers of traditional and culturally relevant foods for FDPIR for the last several years. However, it is often challenging for producers of these foods to provide the volume needed for a national FDPIR program, as they tend to be smaller or mid-sized businesses that do not have a goal of selling in national markets. Tribal leaders have dialogued with USDA previously about the potential to eliminate that challenge through more regionally based food sourcing for Native produced traditional or culturally appropriate foods.

Regionalizing food distribution not only ensures more culturally appropriate food access across Indian Country, but it also has the potential to provide significant cost savings to the federal government in transportation costs by reducing the amount of fuel and trucks needed to move food products around. More regional food distribution monthly could save more than \$3 million as of 2018 estimates.<sup>63</sup> With the rising cost of fuel prices, this number is likely higher using 2022 figures.

## Supplemental Nutrition Assistance Program

### ■ **Tribal eligibility to administer SNAP**

Tribal Nations are not currently eligible to directly administer this program. There is a regulatory pathway Tribes can go through to request administration, but it is extremely complicated. To date, only a handful of Tribes have done this. Tribal Nations already administer FDPIR, which is considered an alternative to SNAP. Enabling Tribes to choose to administer SNAP would enable Tribes to serve their citizens more directly.

### ■ **Tribal eligibility for SNAP-Ed Funding**

As with SNAP, Tribal Nations are not currently eligible to directly access SNAP-Ed funds, which provide a significant source of nutrition education funding to State Agencies. Although States are legally required to consult with Tribal Nations in their service areas while developing their annual SNAP-Ed plans, these consultations do not always happen, and Tribal citizens are left out of valuable nutrition education opportunities. Further, Tribal Nations are better situated to provide culturally appropriate nutrition education programming to their citizens. Direct access to these funds would vastly improve vital nutrition education programming.

### ■ **“638” Authority for SNAP**

Expanding “638” authority to the SNAP program would allow for a more robust Tribal option than programmatic administration

and be a significant acknowledgment of Tribal sovereignty in food systems. “638” has been shown to reduce programmatic costs and produce cost-savings in other arenas and could do so here as well. USDA has acknowledged in dialogue with members of Congress that lessons learned from the FDPIR “638” self-determination contracting could be broadly applicable when expanding “638” to SNAP as well.<sup>64</sup>

### ■ **Dual Use of SNAP and FDPIR**

There is currently a statutory bar on individuals who qualify for both FDPIR and SNAP using both in the same month. This creates an administrative headache for certification of anyone who chooses to move between programs. It also is not representative of any other food program combination. Individuals who qualify for both TEFAP and SNAP may use both, or WIC and SNAP, and on and on. Removing this statutory prohibition would improve food access and opportunities for Tribal citizens to feed their families. If enacted in combination with Tribal administration of SNAP, this provision could also be a powerful tool to not only improve food access in Indian Country but also provide market opportunities for Native-produced foods.

It is important to note, however, that both FDPIR and SNAP remain vital parts of the food security landscape for Indian Country and Tribal citizens. Removing this barrier does not indicate that the need for either program has ended.

## The Emergency Food Assistance Program

Tribes are not currently legally eligible to administer TEFAP. This posed a significant barrier to additional food access opportunities during the coronavirus pandemic, when pre-existing emergency food banks like those assisted by TEFAP would have been a serious benefit to the 49% of Native households experiencing food insecurity. The Farm Bill

could add Tribal Nations to the list of eligible entities for this program, preparing Tribes to better respond to any future crisis affecting food systems.

### Flexibilities for Tribally Administered CSFP

Tribes are currently able to administer the **Commodity Supplemental Food Program (CSFP)**, but few take advantage of this opportunity, due in part to the lack of fresh fruits and vegetables or Tribally-produced foods. A traditional/local foods purchasing provision like that in FDPIR could be applied to CSFP to enhance the quality of foods that Tribes could provide to their elders through this program.

### Tribal Food Procurement for All Farm Bill Food Assistance Programs: Cooperative Agreement Authority

From Tribal leaders to intertribal organizations, there has been a long-standing call from Indian Country for USDA to source more Tribally-produced foods for its food and nutrition assistance programs. Not only does this ensure food access for Tribal citizens, it also provides market opportunities for Native producers and helps grow Tribal economies, creating jobs and markets that stabilize Tribal food systems long-term. Many of the opportunities identified in this report—FDPIR “638” procurement authority expansion, application of “Buy Indian” authorities to USDA—would help realize this call to action. So would a dedicated cooperative agreement authority in the Farm Bill, authorizing the Secretary and AMS to enter into cooperative agreements with Tribal Nations to procure Tribally-produced foods for USDA food and nutrition programs administered by those Tribes. This authority could look like other recent AMS programs, such as the **Local Food Cooperative Agreement Purchasing Program**, that help move locally produced foods into historically underserved communities via USDA food assistance programs. If enacted,

this authority would also provide a pathway for Tribes that do not engage in self-governance programming to move their food products into food assistance programs.

### “638” Application to All Food and Nutrition Programs

In the 2014 Farm Bill, the Nutrition Title authorized USDA to study the potential for Tribal administration of federal food and nutrition assistance programs. As noted in the *Regaining Our Future* report, when that study was released in July 2016, “Nearly all Tribes participating and more than 90% 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.”<sup>65</sup>

The simplest legislative action that could facilitate this Tribal administration would be the application of “638” authority to all Farm Bill nutrition programs. The stage is set at USDA for this statutory change. USDA has committed administratively to expanding self-governance and self-determination across USDA, once in November 2021 in a sweeping announcement from Secretary Vilsack, and again in USDA’s 2022 Equity Action Plan.<sup>66</sup>

On this topic, IAC has recommended: *USDA can support any expanded 638 authority in future legislation. Allowing Tribes to take over these functions from the federal government will improve efficiency, reduce regulatory burdens, and support Tribal self-governance and self-determination. This includes USDA support for full Tribal administration of FDPIR, but also SNAP, TEFAP, and Child Nutrition Programs. Even in the absence of 638 authority, USDA can take administrative actions to support furthering Tribal self-determination in all federal food nutrition assistance programs.*

*Fully implementing Section 6 of Executive Order 13175 and providing Tribal Nations waivers of statutory or regulatory provisions where requested would significantly support Tribal sovereignty and reduce barriers to equity at USDA for Tribes across the entire Department.*<sup>67</sup>

NCAI has included this and similar priorities for the 2023 Farm Bill in the Nutrition Title.<sup>68</sup>

*Extend Tribal Self-Governance under the Indian Self-Determination and Education Assistance Act of 1975 (“638 authority”) to the Supplemental Nutrition Assistance Program (SNAP).*

*Specifically:*

- *Enable Tribal nations to administer the Supplemental Nutrition Assistance Program (SNAP) along with other federal food assistance programs.*
- *Eliminate asset tests that do not align with SNAP requirements.*

*Expand Existing Tribal Self-Determination Opportunities and Establish Tribal Self-Governance Authority under the Indian Self-Determination and Education Assistance Act of 1975 (“638 authority”) in the Food Distribution Program on Indian Reservations (FDPIR) and other Food Assistance Programs at USDA.*

*Specifically:*

- *Include The Emergency Food Assistance Program.*
- *Exercise current authorities enabling Tribal management of existing Food Assistance Programs through Self-Determination contracts and pursue authority for Tribal management of Food Assistance Programs through Self-Governance compacts.*
- *Support additional flexibilities and Tribal Self-Determination/Self-Governance in FDPIR to improve Tribal capacity for local purchasing.*
- *Reform FDPIR to permanently include traditional Native foods.*



TITLE V:  
**CREDIT**



Photo credit: U.S. Department of Agriculture

Farming and ranching are inherently unpredictable and simultaneously very capital-intensive. Farmers and ranchers require reliable access to credit to fund annual operating expenses, purchase and upgrade machinery and equipment, and purchase land. Farming and ranching are high-risk enterprises. Exposure to adverse weather, climate and disaster events, which have always been possible, are occurring with more frequency. Markets for food products and agricultural commodities as well as access to supplies and inputs have been impacted by local, national, and global events, most notably the coronavirus pandemic and international conflicts. For long-term survival, it is imperative that producers have access to lenders that understand the cyclical nature and inherent risks of agriculture and can structure loans accordingly. The Credit Title of the Farm Bill authorizes programs that can provide that access.

The current agricultural lending arena involves USDA's Farm Service Agency (FSA), Farm Credit System banks and associations (FCS institutions), private banks, and other lending entities, including Native Community Development Financial Institutions (Native CDFIs). A 2014 study showed that while Native CDFIs are providing agricultural loans in Indian Country, agricultural borrowing needs significantly exceed lending capacity.<sup>69</sup> The additional difficulties Native borrowers still experience trying to access private lending systems make FSA programs, authorized through the Farm Bill, a vital source of capital for Native producers.

FSA is responsible for administering direct loans to farmers and ranchers who are unable to obtain credit elsewhere. FSA also guarantees loans that other approved lenders make directly to farmers and ranchers. While not the only FSA-approved lenders, Farm Credit associations make a significant number of direct loans guaranteed by FSA.

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*The additional difficulties Native borrowers still experience trying to access private lending systems make FSA programs, authorized through the Farm Bill, a vital source of capital for Native producers.*

The Farm Credit System (FCS) was created by Congress in 1916 as a government-sponsored enterprise. Currently, lending is accomplished through 67 regional Farm Credit agricultural credit associations which are each owned cooperatively by its farmers/borrowers. Each agricultural credit association is regulated by the Farm Credit Administration. Farm Credit associations make direct loans to agricultural producers for operating, capital, and land acquisition, either with or without Farm Service Agency guarantees that may guarantee up to 95% of a loan, depending on criteria.

In addition to making direct loans to agricultural producers, FCS has authority to lend to non-FCS institutions, such as commercial banks and credit unions, which in turn make agricultural loans to FCS-eligible borrowers. These other financing institutions are known as OFIs. The OFI lending authority allows FCS banks to fulfill their mission as a government-sponsored enterprise by enhancing the liquidity of OFIs, thereby lowering the cost of agricultural credit. FCS is required to establish programs to serve young, beginning, and small farmers and ranchers, but it is not statutorily mandated to focus on providing financial opportunities to any other group of eligible agricultural producers.

The 2018 Farm Bill continued FSA agricultural lending functions with several important modifications. **Direct loan limits** increased from \$300,000 to \$600,000 for farm ownership loans and to \$400,000 for farm operating loans. The maximum loan size for **guaranteed loans** increased to \$1.75 million in 2019, indexed for

inflation. The increased limit applies to farm ownership loans and farm operating loans. This is a significant improvement over the prior limit of \$700,000. Increased loan limits were necessary and important changes. Land prices are increasing, and prospective buyers must be able to compete with more financially secure buyers. Operating expenses and equipment costs have also increased significantly since the most recent loan limit increase in 2008. Although the loan limit increases are indexed for inflation, the unprecedented rise in input costs for producers may warrant consideration of an additional increase.

Guaranteed limits increased to 95% for **beginning and socially disadvantaged farmers**. Guarantees under prior law were limited to 80-90%. This guarantee increase allows financial institutions to expand lending opportunities to applicants who may have been considered too risky under prior guarantee limits, since the lender is guaranteed to recover 95% of the loan if borrower defaults.

The 2018 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 more flexibility to beginning farmer loan eligibility by adding coursework, military service, mentoring, and repayment of youth FSA loan to the list of acceptable items considered in lieu of a portion of the three-year farming experience requirement. The entire three-year farming experience requirement is waived for veterans with at least one year of experience as hired farm labor with substantive management experience.

Congress also added and expanded provisions to assist certain borrowers in default of farm loans. A new provision provides equitable relief to direct loan borrowers acting in good faith who have not complied with loan program requirements after relying on a material action,

advice, or non-action from an FSA official. USDA may allow the farmer to retain the loan or provide other relief. **Emergency loan** eligibility was expanded to allow borrowers who have received a loan to write down or restructure due to circumstances beyond their control to remain eligible for emergency operating loans. Prior to the 2018 Farm Bill, borrowers who had received debt forgiveness were ineligible for emergency loans.

The **State Agricultural Loan Mediation Program** was reauthorized in the 2018 Farm Bill and expanded to cover additional issues including the national organic program, leases on land and equipment, family farm transitions, and farmer/neighbor disputes.

The 2018 Farm Bill did not make changes to the **Highly Fractionated Indian Land Loan Program** which was reauthorized by the 2014 Farm Bill and amended to run more effectively. 2014 amendments allowed authorized funds to be delivered in loans through an approved intermediary relending organization, authorized the Secretary to make direct loans, and expanded 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 intent of the program is to be a useful tool to consolidate lands for agricultural purposes within Indian Country.

The 2018 Farm Bill reauthorized a **Microloan Program**, under which a single borrower may borrow up to \$50,000. It also reauthorized the 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. The 2018 Farm Bill added a provision authorizing an additional \$5 million of discretionary funds from the Commodity Credit Corporation to be used for





farm operating if microloan demand exceeds available funds.

The 2018 Farm Bill directed several studies including the following: (1) Annual FSA farm loan program report including performance characteristics, demographics, and participation by socially disadvantaged farmers; (2) U.S. Government Accountability Office (GAO) study about credit availability for socially disadvantaged farmers; and (3) GAO study about the credit needs of Indian Tribes and members of Indian Tribes.

In May 2019, GAO issued its report, *Agricultural Credit Needs and Barriers to Lending on Tribal Lands*.<sup>70</sup> The report largely verified what Indian Country already knew. It reported that according to USDA's 2012 Census of Agriculture, Native producers operated approximately 75% of farms and ranches on 76 selected Native reservations and owned approximately 61% of the farm and ranch acreage.<sup>71</sup> The total market value of agricultural products sold from Native-operated farms and ranches, however, was

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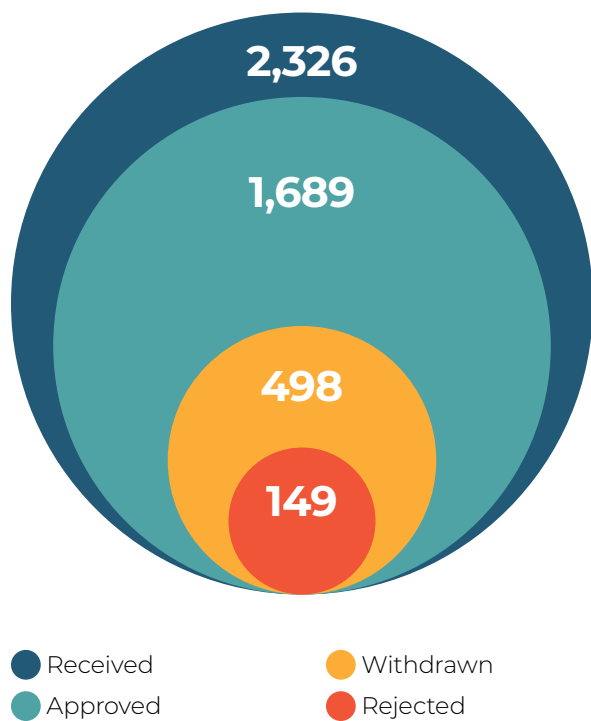
***There a general lack of commercial credit on Tribal lands due to: land use restrictions, administrative process delays, legal challenges, and loan readiness.***

just over a tenth of that of non-Native-operated farms and ranches on the reservations.<sup>72</sup> Furthermore, the agricultural products grown on Tribal lands typically do not feed Tribal members and instead are sold into the general agriculture commodity system. The report stated that “value-added” agriculture activities could help Native producers capture more of the value of products, but that value-added agriculture initiatives would need financing to support these initiatives. Without access to adequate credit, growth of value-added initiatives would be limited. The report’s main conclusion is that there a general lack of commercial credit on Tribal lands due to: land use restrictions, administrative process delays, legal challenges, and loan readiness.

## WHY THIS MATTERS TO INDIAN COUNTRY

Recent years have been difficult in Indian Country, with decreased farm income and an increase in environmental disasters including wildfires and drought. The pandemic resulted in disruptions to sales outlets and processing. Meat, fish, and seafood processing in particular faced a systemic crisis when packing plants had to shut down or decrease volume and animals ready for harvest could not be processed.<sup>73</sup> Avian influenza is currently disrupting the poultry sector with the death of millions of birds. Input prices are substantially increasing across the board in agriculture, and supply is limited. Fertilizer, for example, is exponentially more expensive than prior years and in some cases not available. Conflicts abroad are currently driving additional price increases for these valuable inputs.

### Farm Service Agency Loan Applications from Native Americans FY2016



Source: USDA Farm Service Agency

Credit access is so challenging for Native producers that most of Indian Country is referred to as “credit deserts.”<sup>74</sup> On average, Native producers carry more debt at higher and sometimes even predatory loan rates than other producers.<sup>75</sup> Continuing to improve programs within the Credit Title so that Native producers can more fully access these programs will improve economic realities for 80,000 Native farmers and ranchers across Indian Country.

## 2018 FARM BILL PROGRESS

There was one Tribal-specific provisions enacted in the 2018 Farm Bill.

### Sec. 5415 – GAO Report on Availability of the Farm Credit System to Meet the Agriculture Credit Needs of Indian Tribes and their Members

Requires the GAO to study the availability of agriculture credit to Tribes and Tribal producers within the Farm Credit System.

## EXAMPLES OF OPPORTUNITIES IN THE CREDIT TITLE

### Authorize CDFI pilot program

IAC has called for a pilot program “authorizing CDFIs to administer Farm Service Agency and Rural Development direct funding to illustrate the efficacy of fully exercising the flexibility in existing statutes.” IAC has also said:

*USDA must consider addressing climate change by rethinking agriculture finance. We must find a way to finance climate change efforts through existing production income which requires reimagining of agriculture finance. A system of finance like the one being implemented at Akiptan, Inc., a Native Community Development Financial Institution, created by the IAC, enables producers to consider climate-based, consumer-focused solutions. There is enough capital within the food system to begin this change, if we take a longer-term approach to deployment. Too often we think of addressing*

climate change as a separate issue that stands alone, but it must be a part of everything we do. With the agriculture finance system by its definition providing funding to so many producers across the country, including a climate focus in agriculture finance can have one of the largest impacts and footprints on climate change.<sup>76</sup>

IAC previously identified the following additional opportunities in the 2018 Farm Bill, which are still relevant today:

#### **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.

#### **Make food loans at FSA**

Under current program guidelines, there is some latitude for producers whose production will take

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### **Credit access is so challenging for Native producers that most of Indian Country is referred to as “credit deserts.”**

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.

#### **Keepsake 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.

#### **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: 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.*

### **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.*

### **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*



Photo credit: U.S. Department of Agriculture

*burdensome. By removing the private credit denial provision other producers who reside in locations where private lending is inaccessible would also be assisted.*

### **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:*



*Land held in trust by the United States for individual Indians or Indian Tribes; or*

*Land, the title to which is held by individual Indians or Indian Tribes subject to Federal restrictions against alienation or encumbrance; or*

*Land which is subject to rights of use, occupancy, and benefit of certain Indian Tribes; or*

*Land held in fee title by an Indian, Indian family, or Indian Tribe; or*

*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*

*A combination of one or more of the lands listed above.<sup>77</sup>*

### Add Native producer provision to the Farm Credit System

The Farm Bill could also require the Farm Credit System to make loans to Native Agricultural producers and implement

programs designed to increase credit access to Native agricultural producers and tribes. This could be modeled after the young, beginning, small farmer program. The program could include outreach to producers and educating FCS staff, specifically loan officers, of structuring loans within Indian Country.

### Provide Loan and Loan Guarantee Opportunities to Support Meat, Poultry, Fish, and Seafood Processing

Obtaining credit can be difficult for Tribes and Tribal producers engaged in meat, poultry, fish, and seafood processing. Congress should ensure that loan and loan guarantee opportunities are available for the development of meat, poultry, fish, and seafood processing facilities in Indian Country. Access to credit will assist Tribal communities in developing regional food systems and support tribal member access to traditional, affordable, and nutritional sources of protein.

TITLE VI:

# RURAL DEVELOPMENT



Photo credit: U.S. Department of Agriculture

Since 1973, Farm Bills have included a title dedicated to rural development. The Rural Development (RD) Title, found in Title VI of the Farm Bill, generally addresses (1) rural infrastructure, including housing, electrical generation and transmission, water, and wastewater; (2) rural economic development; and (3) rural business creation and expansion. In more recent Farm Bills, Title VI has addressed broadband deployment, as well.<sup>78</sup> The Rural Development Title creates programs that support rural business and community programs, build housing, and create rural infrastructure, including electric and telecommunications services, rural water and sewer infrastructure, and rural hospitals and healthcare, among many other programs. The programs funded through this title are carried out at USDA through the Rural Development (RD) agency, which is the only agency within federal government whose sole purpose is to serve rural America. Given the rural and remote locations of Tribal Nations across Indian Country, an agency serving only rural places can be a critical source of support.

In 2017, the *Regaining Our Future* report noted in advance of the 2018 Farm Bill that “[t]he needs of infrastructure in rural America have likely never been greater.” That is even more true today, as the world confronts a global health crisis that continues to cause disruptions in supply chains across industries. The portfolio of programs offered by RD and authorized through the Farm Bill’s Rural Development Title provide exactly the kind of investment in rural places that carries communities through crises like the coronavirus pandemic: access to low-cost housing, electrical grids, and water and sewer systems that can support community healthcare facilities; safe facilities and warehouses to process and store food so that supply chain disruptions brought on by disasters don’t leave rural communities without food; access to high-speed broadband that helps producers find new markets for

food when restaurants or schools are closed; and more. By providing funding for essential facilities, including drinking water, sanitary sewer, solid waste, housing, and broadband, rural development programs can address these deficiencies. Rural development programs also provide essential community infrastructure and can assist Tribal Nations in maintaining basic quality of life services. That, in turn, will attract businesses and sustainable employment in Indian Country and all of rural America.

The 2018 Farm Bill included a stronger focus on rural broadband services than ever before. It created a grant program within the **Rural Broadband Program**, which had previously only offered loans—either direct loans or loan guarantees—to participating entities. The 2018 bill also finally codified the **Community Connect Program**, turning this pilot project from previous Farm Bills into a more secure source of grant funding for broadband in economically challenged rural communities. In addition to making this program permanent, Congress authorized \$50 million in annual appropriations from FY19 to FY23 for this program. Congress also increased funding for the **Distance Learning and Telemedicine Program**, providing \$82 million in annual appropriations and setting aside at least 20% of total funding to support telemedicine treatment programs for substance abuse disorders. The **Rural Gigabit Network Pilot Program**, which had been created in the 2014 Farm Bill, was renamed the Innovative Broadband Advancement Program, but no funding was appropriated for it. Finally, the 2018 Farm Bill created a **Rural Broadband Integration Working Group** intended to determine barriers

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*Rural development programs provide essential community infrastructure and assist Tribal Nations in maintaining basic quality of life services.*

and opportunities for improving broadband service in rural areas.<sup>79</sup> The Farm Bill requires this working group to consult with Tribal, state, local, and territorial governments.

Rural businesses continue to have strong support in the Rural Development Title. The 2018 Farm Bill created the **Rural Innovation Stronger Economy (RISE) Program**, which helps create jobs in rural communities through grants for job accelerators and includes Tribes as eligible entities. The **Rural Business Development Grants Program** was reauthorized along with the **Rural Microentrepreneur Assistance Program**, which also received increased funding of \$20 million. The **Rural Business-Cooperative Service (RBCS)** programs were also reauthorized, and Congress created a grant program to support technical assistance providers who assist rural communities in applying to RBCS programs.

The 2018 Farm Bill also continued support for rural infrastructure, doubling the maximum financing for projects under both the **Water and Waste Disposal Loan Revolving Fund** and the **Emergency and Imminent Community Water Assistance Program**. The **Household Water Well Systems Program** was renamed to the **Rural Decentralized Water Systems Program**, and intermediaries are now authorized as eligible entities to offer subgrants to eligible rural homeowners. Finally, the Farm Bill reauthorized the **Water Systems for Rural and Native Villages in Alaska** initiative, amending the grant program to specifically include Native Villages and consortia.

## WHY THIS MATTERS TO INDIAN COUNTRY

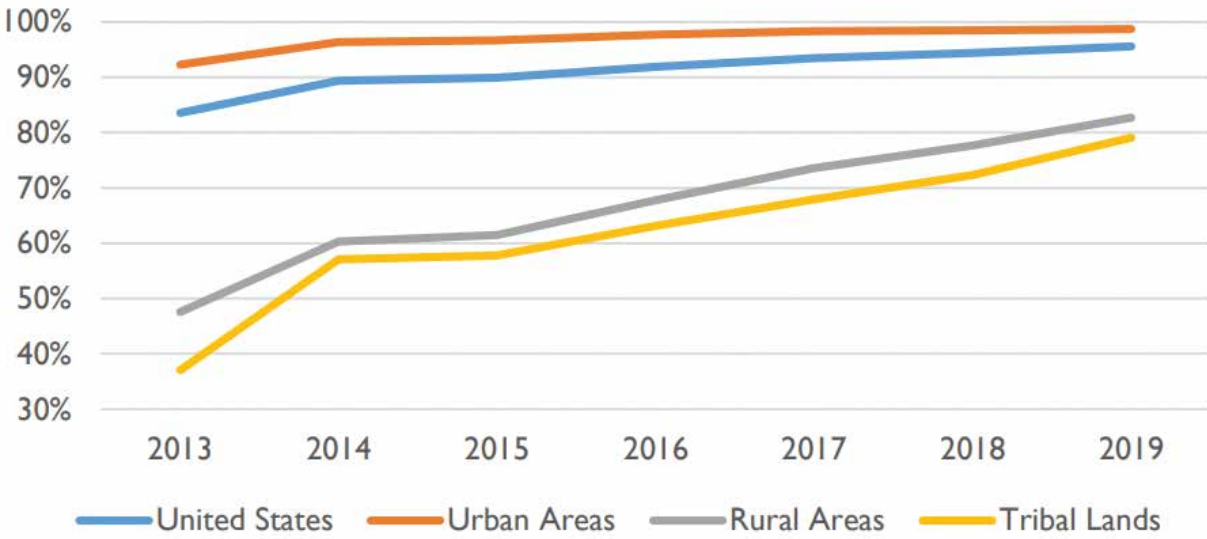
Of RD programs, IAC has said: *USDA's Rural Development (RD) agency has programs that support a wide range of opportunities for Indian Country, including: rural business and community programs; housing; rural infrastructure,*

*including electric and telecommunications services; rural water and sewer infrastructure; and rural hospitals and healthcare, and many more. USDA is the only agency within the federal government that focuses solely on the needs of rural America, including those who live within Indian Country. Rural Development funds are critical to Indian Country's agriculture and economic development. The infrastructure and investment needs in Indian Country are needed to help support this growing sector of Tribal economies. Tribal agriculture production and food systems are essential economic development and community drivers in Indian Country: nearly 80,000 Tribal producers are operating on over 59 million acres of land and generating over \$3.5 billion in economic activity. Tribal entities are often under included or have difficulty accessing RD programs due to issues with lack of information, application scoring systems, matching requirements, and programmatic requirements that do not adequately address the unique business entities and structures. There is a systemic lack of understanding of specific Tribal government and business structures, and lack of priority access and technical assistance for Tribal entities in Rural Development programs... USDA RD offers many grant and loan programs to support rural communities, however Indian Country remains underserved. Tribes often lack large-scale planning resources but are in critical need of the resources USDA RD offers. Tribal Nations encounter difficulty accessing credit through lending institutions which currently have very little incentive to extend credit and capital services onto Tribal lands.*

IAC is correct about the issue of Indian Country's RD program access, and about opportunities to enhance these programs to enable more RD investment in Indian Country. From 2001 to 2018, USDA Rural Development invested more than \$6.2 billion in Indian Country, with \$3 billion invested through housing and community facilities programs, \$415 million through rural business



# Deployment of Fixed Terrestrial 25/3 Mbps Services



Source: Bureau of Indian Affairs, National Tribal Broadband Strategy

and cooperative programs, and \$2.8 billion through rural utilities programs.<sup>81</sup> However, it took nearly two decades for Indian Country to see just a fraction of what RD invested across the country in just one fiscal year: in FY20, RD’s investments in rural communities totaled nearly \$40 billion.<sup>80</sup> Indian Country cannot continue to be left behind in rural investment opportunities. Tribes and intertribal organizations like IAC and NCAI have consistently highlighted multiple places where improvements in the Farm Bill, through the Rural Development Title, would enable RD to invest more heavily in Indian Country.

One of those opportunities is the expansion of a 2008 Farm Bill provision called the **Substantially Underserved Trust Area (SUTA)**. When this provision was created in 2008, it applied to a handful of RD programs and authorities related basic utilities programs. For applicants to those programs who were able to show that they existed in a “substantially underserved trust area,” those applicants were able to access important waivers of program requirements, including lower interest rates, longer repayment terms, and similar assistance.

Interest rates for SUTA-eligible RD programs included interest rates as low as 2%, a waiver of both non-duplication requirements and matching or credit support requirements, extended loan repayment term, and priority funding. SUTA clearly applies to many places across Indian Country as well as U.S. territories.

Both IAC and NCAI, as well as the broader Native Farm Bill Coalition, recommended in the 2018 Farm Bill process that the SUTA provision be expanded to apply to all RD authorities, because of the significant challenges and needs of Indian Country, which as noted above only receives a fraction of total RD available funding due to programmatic barriers. Although the 2018 Farm Bill did not make this change, Congress did note in the Managers language that “[t]he Managers intend for Section 6211, refinancing of loans, that an existing loan may be refinanced using the Substantially Underserved Trust Area program when it is determined to be appropriate. The recipients of these loans are serving the most difficult, and highest cost areas of the country, and allowing for the refinancing of higher interest loans will provide the ability for these

telecommunications carriers to continue to build high-speed broadband networks.”<sup>82</sup>

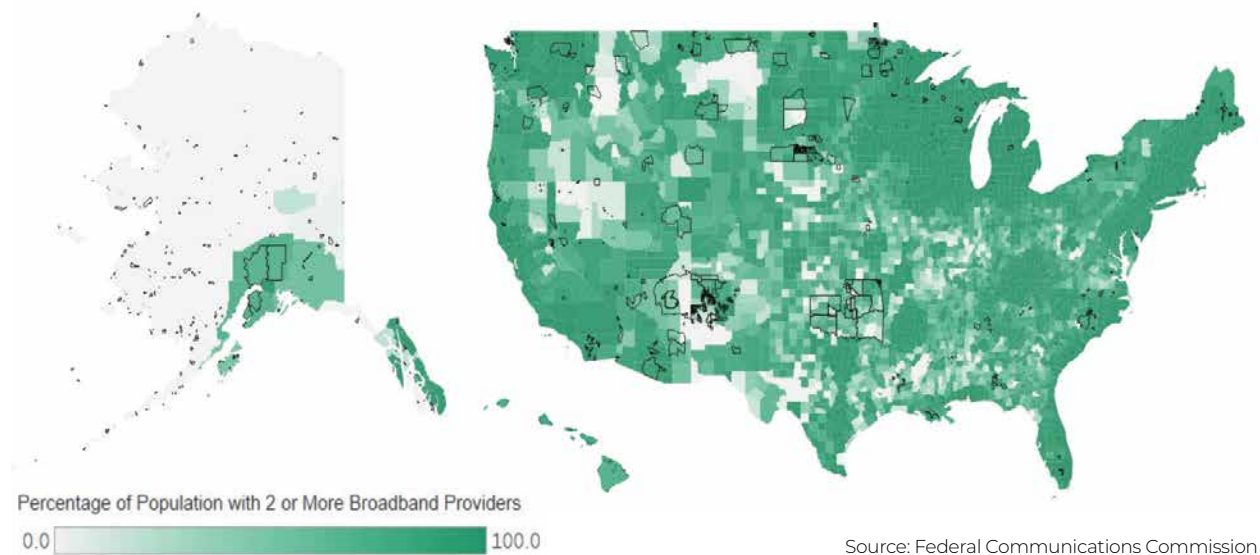
The Native Farm Bill Coalition has noted before that broader application of SUTA represents “effective mechanism to ensure Tribal priority for much-needed infrastructure in Indian Country.”<sup>83</sup> Tribal priority funding in RD programming would assist Tribal governments, businesses, and Native food producers in accessing infrastructure and vital loan and grant opportunities to grow and stabilize Tribal economies. RD programming could address critical infrastructure needs in Indian Country, most of which have been either underscored or exacerbated by the onset of the coronavirus pandemic. Approximately 12% of Tribal homes lack access to safe drinking water and basic sanitation, more than 20 times the national average.<sup>84</sup> Tribal communities are also disproportionately underserved—or wholly unserved—when it comes to access to high-speed internet. The FCC estimated that 35% of Americans living on Tribal lands lacked

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*Although broadband deployment has improved in Indian Country over the last decade, Tribal areas still lag behind all others, even in similarly rural areas.*

access to broadband services, compared to 8% of all Americans, and individuals residing on Tribal lands are nearly 4.5 times as likely to lack any terrestrial broadband internet access as those on non-Tribal lands.<sup>85</sup> Although broadband deployment has improved in Indian Country over the last decade, Tribal areas still lag behind all others, even in similarly rural areas.<sup>86</sup> While Tribal Nations are eligible for RD broadband program funds, they are required to compete against larger governments and more resourced corporate and nonprofit entities. Full application of SUTA provisions across RD authorities, especially the inclusion of SUTA-eligible applicants as priorities for funding, would significantly

## National FCC Broadband Rates



Map of U.S. counties with two or more broadband providers with an overlay of Indian Country.

reduce Indian Country's funding disparities and address these systemic issues.

## **2018 FARM BILL PROGRESS**

The 2018 Farm Bill included several Rural Development provisions that were important to Indian Country:

### **Sec. 6302 – Establishment of Technical Assistance Program**

Establishes a permanent Rural Development Tribal Technical Assistance Office to provide technical assistance across all areas of rural development funding for Tribal governments, Tribal producers, Tribal businesses, Tribal business entities, and Tribally designated housing entities to improve the entities' access to RD programs.

### **Sec. 6406 – Tribal College and University Essential Community Facilities**

Reauthorized at current \$10 million funding level.

### **Sec. 6408 – Water Systems for Rural and Native Villages in Alaska**

Reauthorized grants for water systems for rural and Native Villages in Alaska. It amends the eligible grant recipients to include Native Villages, as defined in the Alaska Native Claims Settlement Act, and consortiums formed pursuant to the Department of Interior and Related Agencies Appropriations Act, 1998 (P.L. 105-83). Authorizes USDA to set aside up to 2% of annual program funds for consortiums to provide training and technical assistance for water and waste disposal operation and management.

### **Sec. 6401 – Strategic Economic and Community Development**

Requires the Secretary to coordinate with Tribes and other governments and provide priority, under any Rural Development program, to Strategic Community Investment

Plans that improve broadband across a multijurisdictional basis, as well as include investment from strategic partners such as Tribal governments.

### **Sec. 6701(a)(1) – Corrections Relating to the Consolidated Farm and Rural Development Act**

Technical amendment clarifying the eligibility of Tribes as defined under Section 4(e) of the Indian Self-Determination and Education Assistance Act.

### **Sec. 6419 – Rural Business-Cooperative Service Programs Technical Assistance and Training**

Expressly authorizes Tribal governments as eligible grantees for technical assistance/training programs under the Rural Business-Cooperative Service.

### **Secs. 6205, 6209, 6211, 6501, 6505 [Refinancing Authority for Rural Development Infrastructure Loans]**

Intends that an existing loan may be refinanced using the Substantially Underserved Trust Area program, and USDA must publish a notice detailing its implementation of this refinancing authority (See Conference Bill at Sec. 6211).

### **Sec. 6201 – Access to Broadband Telecommunications Services in Rural Areas**

Prioritizes Tribes and other underserved communities for broadband grants and loans.

### **Sec. 6302 – Establish a Permanent Rural Development Tribal Technical Assistance Office**

Establishes a permanent Rural Development Tribal Technical Assistance Office to provide technical assistance across all areas of rural development funding for Tribal governments, Tribal producers, Tribal businesses, Tribal business entities, and Tribally designated housing entities to improve the entities' access to RD programs. Unfortunately, this provision has not yet been implemented.



Photo credit: U.S. Department of Agriculture

The trust responsibility of the federal government to Tribes supports the need to establish such assistance interventions. This is not unheard of, as RD (particularly in the infrastructure arena) has field staff who assist agency staff and the applicant in analyzing financial viability, key engineering specifications, and related technical requirements for more complex infrastructure projects. The Farm Bill authorizes RD to utilize the Secretary’s cooperative agreement authority to carry out this provision, but RD has yet to do so. NCAI has recommended that \$1.5 million be appropriated to USDA for this program to ensure that it began operations.<sup>87</sup> While the initial NCAI request was made for the FY22 appropriations cycle, this could be incorporated into the 2023 Farm Bill.

#### **Sec. 6204 – Community Connect Grant Program**

Codifies the Community Connect program with Tribes and Tribal organizations eligible for grants, as well as other underserved communities.

#### **Sec. 6306 – Council on Rural Community Innovation and Economic Development**

Creates a Council with representatives from 26 Executive Branch agencies to streamline and leverage federal investments in rural areas and coordinate with all stakeholders, including Tribal governments. The Rural Broadband Integration Working Group is not included.

## **EXAMPLES OF OPPORTUNITIES IN THE RURAL DEVELOPMENT TITLE**

The 2018 Farm Bill marked great progress for Indian Country in the Rural Development Title, as discussed above, but opportunities remain. Many Indian Country priorities elevated during the development of the last Farm Bill were not included in the final legislation. In addition, other opportunities in Title VI have become apparent in the time since the 2018 Farm Bill. These opportunities, both lingering and new, are pathways to empowering rural development in Indian Country that could be expanded or forged anew.



## Implement SUTA Provisions Throughout all Rural Development Programs

As discussed above, the 2018 Farm Bill's Joint Explanatory Statement clarified that the Managers intended that existing loans could be refinanced using the SUTA program under this authority. However, this option is only applied to *existing* loans and a small segment of infrastructure programs. RD offers a broad array of loans, loan guarantees, and grants where barriers to Indian Country could be reduced or eliminated through expanded implementation of the SUTA provision. The change would, among other things, allow the waiver of matching requirements for projects funded through RD, which can be a significant barrier to socially disadvantaged applicant participation in RD business and infrastructure projects. Expanding the reach of SUTA would go a long way to ensuring more equitable access to RD programs and authorities, and it can be used to provide important support to tribal citizens living in remote, rural, isolated communities who are in dire need of RD programs.

NCAI included the expansion of SUTA provisions in their 2023 Farm Bill priorities:

### ***Expand USDA-Rural Development Program's Substantially Underserved Trust Area (SUTA) Designation to All Programs at RD to Support Tribal Priority***

*Specifically:*

- *Allow all USDA Rural Development programs to enable Tribal priority through their exercise of SUTA, allowing:*
  - *Low-interest rates on utility loans;*
  - *Waivers of non-duplication, matching, and credit support requirements;*
  - *Extension of loan repayment terms; and*
  - *Funding priority to utility infrastructure programs within SUTA.*<sup>88</sup>

### **Rural Development Tribal Set-Aside**

The Native Farm Bill Coalition has previously supported the creation of a total tribal set-aside in all RD funding authorities, either in terms of percentage of the funding portfolio or a specific funding level for tribal applications. This would

be included within each of the RD program authorities to address the inadequacy and general lack of rural infrastructure in Indian Country. Such a set-aside would be founded upon the trust responsibility of the federal government to Tribal Nations.

The Native American Agriculture Fund (NAAF) has also highlighted this as a policy priority, stating: *USDA RD should also set-aside a sufficient amount of funding in its rural broadband programs to ensure that 20% of all rural broadband projects funded by these programs are delivered to the benefit of Native communities. Native food systems and producers must have the support of broadband access to implement advanced food systems on their lands.*<sup>89</sup>

### Maintain the Under Secretary for Rural Development Position

Having an Under Secretary whose primary duties are to focus on RD programs and funding is critical for Indian Country and rural America. Any changes that would impact the Under Secretary role for Rural Development should be the subject of tribal consultation.

### Supporting Native CDFIs Loan Authority

IAC has previously recommended that USDA develop a process to allow small, new, and emerging Community Development Financial Institutions (CDFIs) access to loan authorities at RD.<sup>90</sup> The Native CDFI Network reports that 86% of Tribal communities lack a single financial institution within their borders to access affordable financial products and services. Native CDFIs aim to fill this gap by helping overcome systemic barriers to entrepreneurial success. These barriers include a lack of physical, legal, and telecommunications infrastructure, access to affordable financial products and services, and limited workforce development strategies.<sup>91</sup> Due to prohibitive requirements placed on CDFIs to access loan authority, only the largest CDFIs can secure any

meaningful funding levels. If a process were to be developed to allow small, new, and emerging CDFIs access to this valuable tool, it would greatly increase Indian Country access to RD loan authorities.

### Extend Rural Electric Loan and Grant Program Authority to CDFIs

In the 2018 Farm Bill process, IAC noted:

*Rural electric cooperatives are uniquely poised to be economic development drivers in their communities. Providing reliable, affordable electricity is essential to sustaining the economic well-being and quality of life for all of the nation's rural residents. Electric Programs provide leadership and capital to maintain, expand, upgrade, and modernize America's vast rural electric infrastructure. Under the authority of the Rural Electrification Act of 1936, the Electric Program makes direct loans and loan guarantees (FFB), as well as grants and other energy project financing to electric utilities (wholesale and retail providers of electricity) that serve customers in rural areas. Often, rural electric cooperatives choose not to avail themselves of this opportunity. In cases where a rural electric cooperative chooses not to participate in this program in the past, local CDFIs should have the opportunity to carry out the function.*<sup>92</sup>

In comments provided to the Office of Tribal Relations in March 2021, IAC identified the following additional solutions for Rural Development.<sup>93</sup>

- *Implement the Tribal Technical Assistance Office at Rural Development provisions from the 2018 Farm Bill to support Tribes and Tribal entities have access to the agency Rural Development (RD) programs, as well as provide need support and connection with partner organizations on training and guidance within RD on Tribal business structures and entities to clear up any misunderstandings of ineligibility.*
- *Federal grants requiring substantial matching funds which inherently prohibits many*

*Tribes, organizations, and municipalities from accessing these resources. A potential solution is to reduce match requirements on federal programs, offer set-asides in grant opportunities for Tribes and limited-resource communities in RD programs and all authorities.*

- *Increased access to Rural Development’s Community Facilities (CF) program is needed for food systems infrastructure, like value-added, preservation, and storage infrastructure.*
- *Address the discrepancies in access to credit by implementing a pilot program authorizing CDFIs to administer Farm Service Agency and Rural Development direct funding to illustrate the efficacy of fully exercising the flexibility in existing statutes.*
- *Amend the Community Facilities Direct Loan program re-lending regulations to accommodate Native CDFIs.*
  - *In FY16, USDA’s Rural Housing Services (RHS) amended its Community Facility (CF) Direct Loan regulations to allow USDA to make loans to qualified CDFIs and other community lenders – that would in turn re-lend USDA funds to applicants to finance qualified community facilities in or serving areas of high or persistent poverty. While using a re-lending model that allows Native CDFIs to operate as intermediaries is an effective way to encourage more USDA CF lending in Native communities, the eligibility requirements set forth in the FY16 application made it difficult for qualified Native CDFIs to apply. Of the 30 states identified with Persistent Poverty counties over the last three decades, ten of them (one third) were states with resident American Indian/Alaska Native communities. Of those ten states, nine of them have several Native CDFIs that were not able to meet the program eligibility requirements. Of those*

*Native CDFIs that were eligible to apply, two of the three failed to have an adequate AERIS score.*

NCAI offered these fundamental recommendations for improving the Rural Development Title in NCAI’s FY22 Budget Request to Congress:<sup>94</sup>

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

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

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

*The USDA Rural Utilities Service (RUS) provides funding to support a variety of critical infrastructure improvements in rural communities, including telecommunications and broadband services. Congress should establish a permanent, \$24 million annual set-aside for TCUs under the USDA Rural Utilities Service (RUS) to better serve TCUs as rural, community-based, and under-resourced institutions. Over the past several years, telecommunications and broadband funding has gone unused under the RUS program. A permanent \$24 million set-aside for TCUs, which are 1994 Land-Grant institutions*

served by USDA, could be established at no additional cost using existing funds.

### **Provide \$980.624 million to Rural Utility Service (RUS)**

USDA RD began implementing changes in 2012 designed to improve access to RUS funding for individuals living in Substantially Underserved Trust Areas (SUTA) — including Tribal lands and lands owned by Alaska Native Regional Corporations and Village Corporations — to improve basic services, including: water and waste disposal, rural electrification and high-cost energy, telecommunications and broadband infrastructure, and distance learning and telemedicine. The SUTA changes, originally authorized by the 2008 Farm Bill, still require additional funding for administration as well as for programs and loan authority within RUS. It is important that more funding is made available to provide the infrastructure development and upgrades necessary in Indian Country. Of special concern is the need to maintain funding for Tribal set-asides for water, wastewater, and solid waste management for Indian Country and Alaska Native Villages. USDA's Water and Environmental Program (WEP) provides a combination of loans, grants, and loan guarantees for drinking water, sanitary sewer, solid waste, and storm drainage facilities in Tribal and rural areas and cities and towns of 10,000 or less. WEP also makes grants to non-profit organizations to provide technical assistance and training to assist rural communities with water, wastewater, and solid waste management.

More than 12% of tribal homes lack access to safe drinking water and basic sanitation, which is a rate more than 20 times higher than the national average. 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

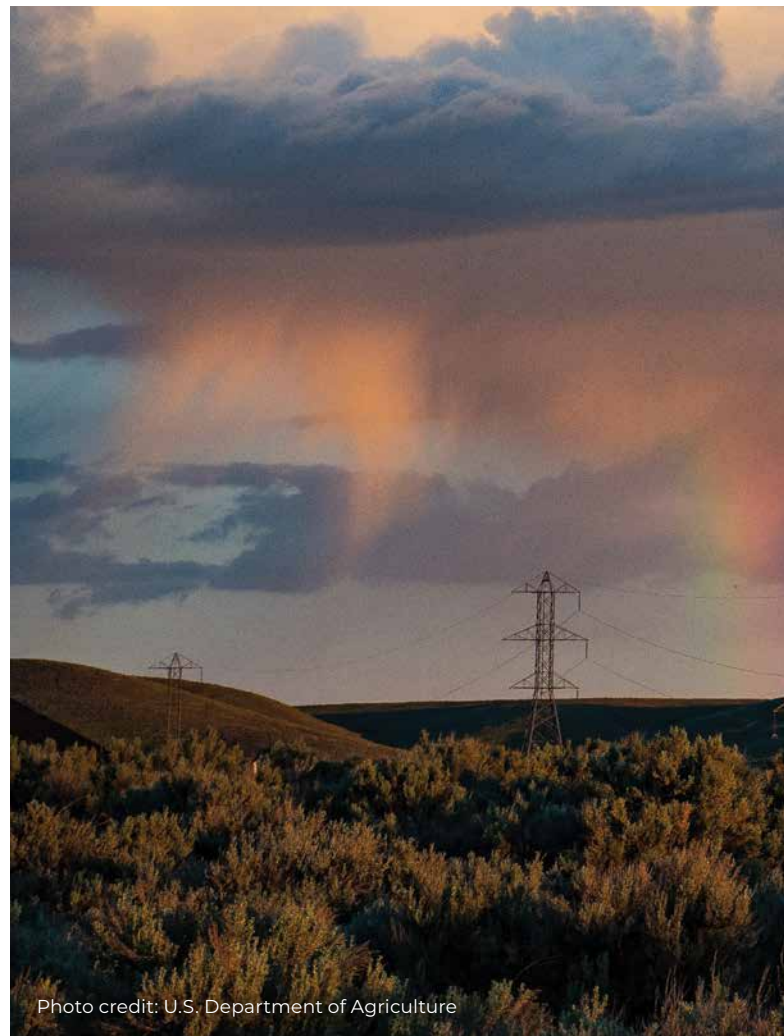


Photo credit: U.S. Department of Agriculture

addressing this fundamental deficit in the quality of life for AI/ANs and recent cuts to this budget makes it worse, exposing tribal communities to unhealthy water and its subsequent detrimental impacts to human health, economic development, and community morale.

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

The 2018 Farm Bill mandated the establishment of a Tribal Technical Assistance Program within USDA RD designed to address the unique challenges Indian Country faces when seeking infrastructure, cooperative development, housing, and other development opportunities funded by USDA RD. Funding for this newly established area is especially critical due to the unique circumstances surrounding





*lending and infrastructure deployment in tribal communities, which often leads to either misinformation provided to Tribal Nations or misinterpretation of Tribal applications. Appropriating \$1.5 million to establish this program will help to eliminate these unnecessary barriers to development in Indian Country.*

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

*In FY13, the Rural Housing Service (RHS) programs provided \$177 million in economic support to American Indian and Alaska Native enterprises and communities as well as Tribal colleges. During this time, USDA RD provided 56 Single Family Housing direct loans (totaling \$119 million) and 1,100 Single Family Housing loan*

*guarantees (totaling \$155 million). In FY20, tribal colleges received \$5 million under the Tribal College Community Facilities Initiative, and tribal communities, alongside private, nonprofit community-based housing and community development organizations, low-income rural communities, and Tribal Nations received more than \$96 million in loan and grant financing under the Rural Housing and Community Facilities Programs. 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.*

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

U.S. Department of Agriculture (USDA) Rural Development (RD) has limited staff resources to provide Single Family Housing Direct Loans on Tribal land. In FY20, of the 5,821 direct loans made nationally by USDA RD, just 110 were issued to Native American borrowers, and only seven of those were for homes on tribal lands. In 2018, a 502 Direct Loan relending pilot program was announced, providing \$2 million to two Native Community Development Financial Institutions (CDFIs) to relend to eligible Native families in North and South Dakota. The demonstration program was highly successful, deploying 17 loans mortgage loans in less than a year on two South Dakota Indian reservations—Cheyenne River Indian Reservation and Pine Ridge Indian Reservation—nearly twice the amount deployed in the previous decade—with an additional pipeline of demand from 29 families for \$3.6 million in mortgage financing on those two reservations alone. This pilot program has been successful, in part, due to Native CDFIs’ experience operating on Tribal lands. In addition, Native CDFIs provide extensive financial and homebuyer education to help their clients become self-sufficient private homeowners. The proposed expanded relending pilot program would increase the flow of mortgage capital to Indian Country by allowing Native CDFIs to be eligible borrowers under the 502 Direct Loan Program and enable them to relend to eligible families for the construction, acquisition, and rehabilitation of affordable housing. By expanding and making this pilot program permanent, USDA RD will be able to partner with other Native CDFIs nationwide to deploy much-needed mortgage capital throughout Indian Country.

During development of the last Farm Bill, NCAI also issued the following comments concerning recommendations for the Rural Development

Title, which have not yet been addressed and represented in opportunities in 2023 as well:<sup>95</sup>

***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.

***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% of the amounts made available in each fiscal year.

### **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).*

### **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.*

### **Support for Water Infrastructure**

*The Native American Agriculture Fund (NAAF) identified water infrastructure needs as a priority for the 2023 Farm Bill, and noted: A special study conducted by USDA RD is needed to identify water and sewer systems that are in need of repair and replacement on Tribal lands that impact Native food economies and RD must be required to prioritize the completion of such projects within the applicable rural water infrastructure programs managed by USDA.<sup>96</sup>*

The cumulative list of recommendations above provides a roadmap for the full utilization of RD in Indian Country. The RD family of agencies is the most critical USDA agency in terms of support for building rural and reservation economies, and these changes, if enacted by Congress and implemented by USDA, would significantly bolster the ability of Rural Development to make a positive impact in Indian Country.

TITLE VII:

# RESEARCH

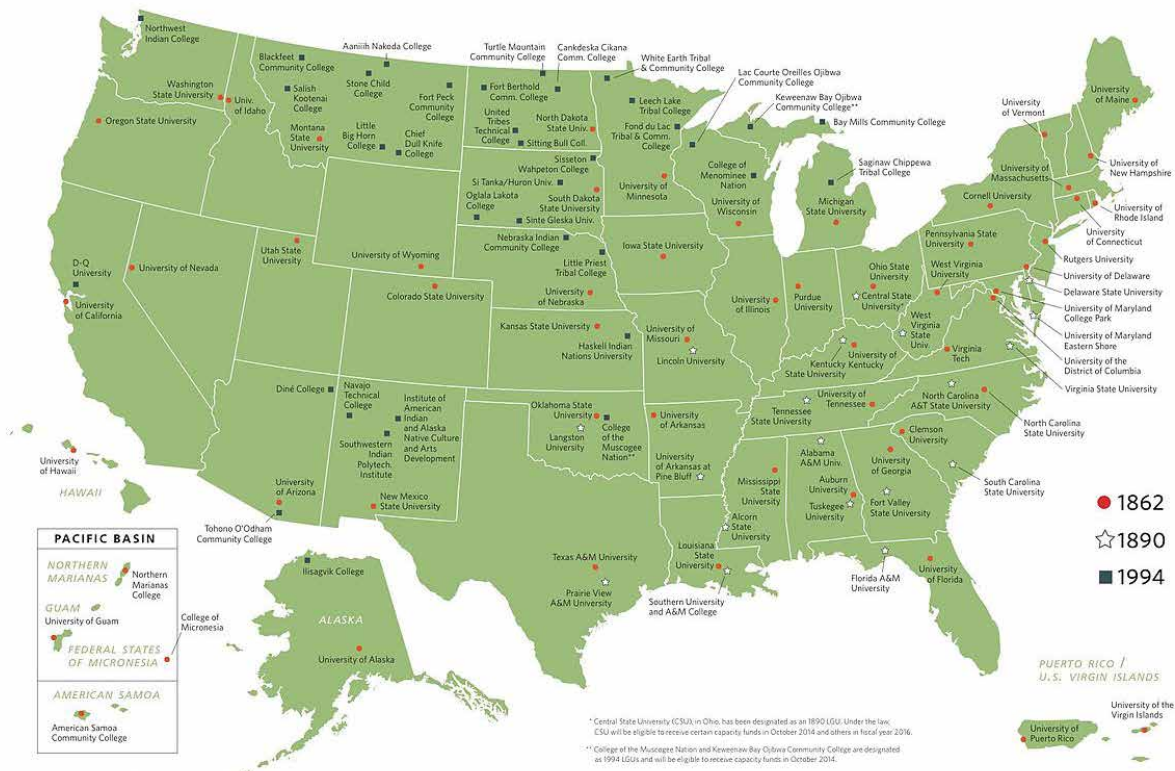


**T**itle VII, the Research Title, is among the oldest of the Farm Bill titles, with its origins in the Morrill Land Grant Act of 1862. The original purpose of the Morrill Act was to establish and fund research in land grant institutions in every state. These initial “land grants” were named as such because they were given to states from lands acquired through the earliest treaties, many of which were never ratified, between the federal government and nearly 250 Tribes, Bands, and Communities. Often, these were lands seized with no payment to the Tribe, or payment well below the value of the land.<sup>97</sup> From 1862 onward, the land grant system was intended to create educational institutions offering agricultural research and education services, but despite being built on Native land, it would take 132 years for Indian Country to see any federal recognition or funding for Tribal land grant institutions serving Native agricultural producers.

*Despite being built on Native land, it would take 132 years for Indian Country to see any federal recognition or funding for Tribal land grant institutions serving Native agricultural producers.*

Since 1862, the definition of a land grant institution has been expanded several times through legislation. The definition was first expanded to include Historically Black Colleges and Universities (HBCUs) in 1890. More recently, Congress granted land-grant status and funded authority to the first group of **Tribal Colleges and Universities (TCUs)** through the **Equity in Educational Land-Grant Status Act of 1994**. In each subsequent Farm Bill, more and more TCUs have been granted status as land grant institutions (or 1994s), for a total of 35 TCUs

## NIFA Land-Grant Colleges and Universities



<sup>97</sup> Central State University (CSU), in Ohio, has been designated as an 1890 LGSU. Under the law, CSU will be eligible to receive certain capacity funds in October 2014 and others in fiscal year 2016.  
<sup>98</sup> College of the Muscogee Nation and Keweenaw Bay Ojibwa Community College are designated as 1994 LGSUs and will be eligible to receive capacity funds in October 2014.

Source: National Institute of Food and Agriculture, USDA

across Indian Country today.<sup>98</sup> The 2018 Farm Bill saw the Nueta Hidatsa Sahnish College and Red Lake Nation College added to the list of 1994 institutions.<sup>99</sup> As a land grant college or university, institutions have access to capacity “formula” grants and other competitive grants to support agricultural teaching, research, and extension.

The 2018 Farm Bill saw the creation of the **New Beginnings for Tribal Students program**, which makes competitive grants available to land grant colleges and universities to provide support for efforts improving educational access to Tribal students, including scholarships and programs to support retention and graduation rates with \$5 million appropriated annually. The Research Title also includes funding support for agricultural experiment stations, the cooperative extension system, and the more recently funded **Federally Recognized Tribal Extension Program (FRTEP)**, which provides direct technical assistance to producers across Indian Country. The Research Title also provides support for the **National Sustainable Agriculture Information Service** (more commonly known as ATTRA), the **Organic Agriculture Research and Extension Initiative (OREI)**, and the **Foundation for Food and Agriculture Research**,<sup>100</sup> a nonprofit promoting public-private collaborations by mandating matching for the \$200 million federal dollars granted by the Farm Bill. It authorizes formal funding of more than 100 funding opportunities through the USDA **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. The Research Title also retained the education grants program to institutions serving Alaska Natives and Native Hawaiians. 1994 institutions that provide forestry degrees became eligible for McIntire-Stennis Forestry Program funding, which had previously never been available to 1994s. This

inclusion makes funding support available to train the next generation of Tribal foresters. Finally, Title VII saw a new position added to the National Genetics Resources Advisory Committee for a representative from 1994 tribal colleges and universities, and 1994s became eligible for the partnerships to build capacity in international agricultural research, extension, and teaching.

The traditional farming practices and ecological knowledge held by Tribal farmers and other knowledge keepers has the potential to improve the diversity, resiliency, environmental and economic sustainability, and productivity of our food systems. Research regarding this knowledge should be handled respectfully and in good relationship with the communities and individuals from which it originates. This research requires full consultation with Tribal governments and full compliance with modern cultural practices. It may require data sovereignty and opacity considerations, along with cultural sensitivity and awareness training and education for researchers, especially considering the historical exploitation of Indigenous science, the trauma of the colonial education system as imposed on Indigenous people for generations, and the continued inequality of access to agricultural research and extension services. Along with authentic relationships and partnerships required for research, reciprocity should be considered. Land grant universities, be they state, Tribal or otherwise, should strive to extend knowledge and research outcomes into communities as a start. The Research Title can support all of that work and more.

## WHY THIS MATTERS TO INDIAN COUNTRY

Given the new challenges brought on by the coronavirus pandemic as well as ongoing climate instability, the agricultural research, extension, and related matters covered by the Research Title are more relevant to

Indian Country than ever before. Research and extension services are vital to improving the resiliency of our food systems. However, agricultural extension resources serving Tribal lands are severely underfunded, and Tribal agricultural research priorities are rarely considered outside of the TCU context. While the Farm Bill provides base funding for the research, education and extension functions of 1994 land grant institutions, TCUs still have not achieved parity compared with state land grant universities in the availability of research funds. FRTEP, created to help address this shortcoming, remains critically underfunded and understaffed.

Supporting Native American students during their education is an important priority across Indian Country. The **New Beginnings for Tribal Students program** for the first time gave all land grant institutions opportunities to fund programs supporting Native American students. Considering only a small fraction of

*Agricultural extension resources serving Tribal lands are severely underfunded, and Tribal agricultural research priorities are rarely considered outside of the TCU context.*

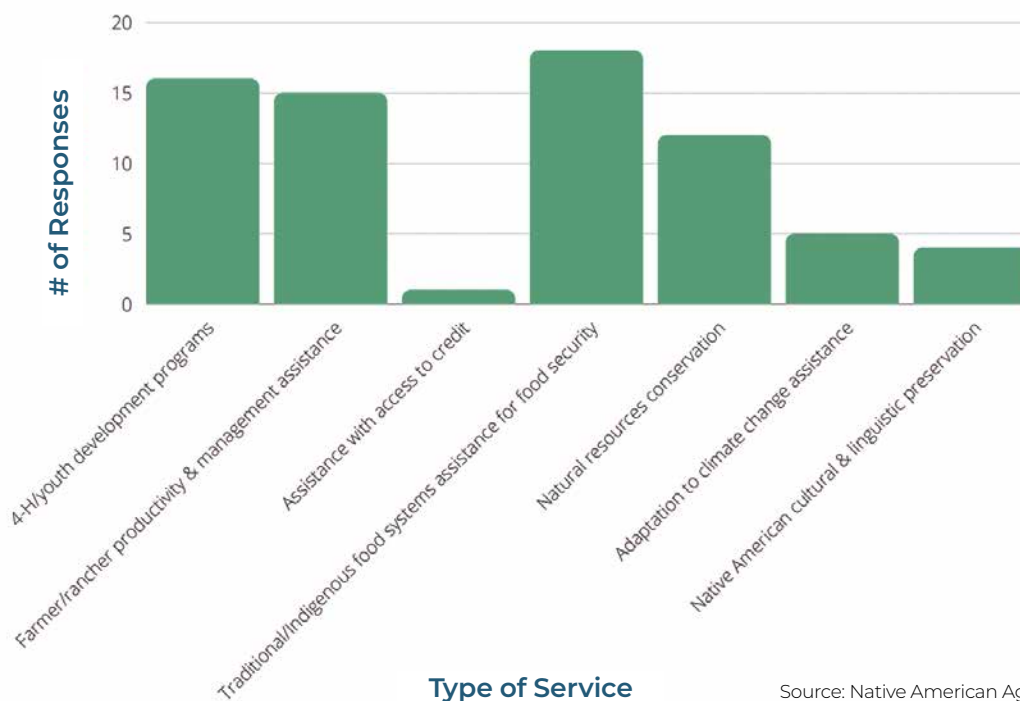
American Indian/Alaska Native students attend TCUs, it is especially important for state land grant institutions to have funding opportunities to support the education of Tribal students. Prioritizing Tribal students in agricultural fields of study will have far-reaching positive effects. Educated Indigenous producers will build more resilient food systems, improve Tribal sovereignty over food and nutrition, and ensure fulfilling and meaningful work in Tribal communities. The Research Title helps educate and prepare Native American students to be the next generation of producers, scientists, technical specialists, business managers, engineers, lawyers, and the related

## Where Federally Recognized Tribal Extension Program Agents Work



Source: Native American Agriculture Fund

## Federally Recognized Tribal Extension Program Agent Services



Source: Native American Agriculture Fund

professionals who advise and support the agriculture and food sectors.

Research Title programs also help Native producers with direct, on-the-ground technical assistance through the FRTEP, as well as through additional services supporting natural resource managers, Native youth in 4-H programming, and Tribal communities as a whole. FRTEP agents can act as liaisons for USDA programs, offer educational training opportunities for producers and 4-H activities for youth, and so much more. The funding FRTEP receives pays dividends for Native producers and Tribal communities: the Arizona FRTEP agency increased economic output by nearly \$1 million annually as of 2016.<sup>101</sup> FRTEP can be a powerful support for Indian Country food systems and help grow the next generation of food and agriculture leaders in Indian Country through 4-H programming for Native youth. The breadth of support FRTEP provides is so broad that in 2020, NAAF described the program by saying, “[t]he FRTEP goes beyond

***FRTEP can be a powerful support for Indian Country food systems and help grow the next generation of food and agriculture leaders in Indian Country through 4-H programming for Native youth.***

providing agricultural extension. It addresses language preservation, climate change adaptation, natural resources conservation, food insecurity, economic development, and youth engagement.”<sup>102</sup> Unfortunately, FRTEP is chronically underfunded, utilizing competitive formula grants that keep FRTEP agents busy writing grants to support their salaries instead of empowering them to do the work they love: supporting Indian Country’s agricultural producers.<sup>103</sup>

Numerous Native-led organizations, including IAC, NCAI, NAAF, and the recently formed Indian Country Extension Commission (ICEC),



have called for a change in FRTEP's formula funding structure along with a significant increase in non-competitive funding for all eligible FRTEP entities, which after the 2018 Farm Bill, now also includes the 1994 land grant institutions. This change is needed more than ever after the 2018 changes. Adding the 1994s as FRTEP-eligible was a significant acknowledgment of the importance of TCUs, but because Congress added no additional funds, FRTEP's already thin \$3 million budget has been stretched further than ever before. With additional non-competitive funding, FRTEP can support even more Native producers, Indigenous youth, and Tribal communities across Indian Country. The strong economic support of just one FRTEP office readily demonstrates the potential economic impact and growth a fully funded, functional FRTEP could have for Indian Country's agricultural sector.

The greatest potential for Indian Country in the Research Title of the Farm Bill lies in the opportunities for innovation. Research and education can help improve efficiency and drive creative solutions to problems. Consistent support for research will spur economic development and entrepreneurship. Some specific areas of innovation funded by Title VII include the **Organic Agriculture Research and Extension Initiative** where \$100 million are provided over the life of the Farm Bill to support competitive research, extension, and education grants that address key issues facing organic producers. There are also funds available for research and education related to adaptation to environmental changes across multiple grant programs. The ripple effect of consistent investment in research, extension, and education will change the shape of our food systems for the better. Expanding tribal involvement and representation in research is critical to that change.

## 2018 FARM BILL PROGRESS

### **Sec. 7109 – Education grants to Alaska Native serving institutions and Native Hawaiian serving institutions**

Reauthorized at current levels in the 2018 Farm Bill.

### **Sec. 7502 – Equity in Educational Land-Grant Status Act of 1994**

Adds Nueta Hidatsa Sahnish College and Red Lake Nation College to the 1994 Institutions list. Reauthorizes endowment, capacity funds, and research grants for tribal colleges.

### **Sec. 7120 – New Beginning for Tribal Students**

Creates a new Native American student scholarship fund for Tribal students attending land-grant universities and colleges.

### **Sec. 7123 – Partnerships to build capacity in international agricultural research, extension, and teaching**

Includes 1994 Tribal Colleges as eligible for program to build the capacity and improve the performance activities substantially similar to agricultural research, extension, and teaching activities.

### **Sec. 7206 – National Genetics Resources Program**

Adds 1994 Tribal College representation on National Genetics Resources Advisory Committee to provide recommendations on the commercialization of public cultivars and collection of seeds and germplasm for the National Seed Bank.

### **Sec. 7604 – Assistance for forestry research under the McIntire-Stennis Cooperative Forestry Act**

Makes 1994 Tribal Colleges eligible for McIntire-Stennis Forestry program capacity funding.

### **Sec. 7609 – Smith-Lever Community Extension Program**

Adds TCUs as eligible for funding for the Children, Youth, and Families at Risk (CYFAR)

Program and the Federally Recognized Tribes Extension Program (FRTEP).

## EXAMPLES OF OPPORTUNITIES IN THE RESEARCH TITLE

### Addressing the Federally Recognized Tribal Extension Program (FRTEP)'s Funding Needs

The expansion and full funding of the Federally Recognized Tribal Extension Program (FRTEP) represents a significant opportunity in the Research Title for Indian Country. With only \$3 million in annual competitive grant funding, extension services are still insufficient for Tribes outside the service area of 1862 land grant institutions.

IAC has previously called for FRTEP to be funded at no less than \$10 million annually to increase the number of FRTEP extension agents and expand tribal extension to levels even comparable to extension services at land grant institutions.<sup>104</sup> IAC has also called on USDA to support FRTEP funding increases, stating:

*Historic funding in the Federally Recognized Tribes Extension Program (FRTEP), which has been at \$3 million since its inception in 1990 and forced our hard working FRTEP agents to do more for less money.*

- *All other extension service programs have seen budget increases over time to at least keep up with inflation.*
- *Further, the 2018 Farm Bill, rightfully so, included eligibility for 1994 land grants to the FRTEP, however no additional funding was provided.*
- *With our extension services stretched beyond belief already, USDA must step up and provide adequate funding for our existing FRTEP programs and additional money to add more sites to ensure that our Tribal producers have access to educational resources and opportunities.<sup>105</sup>*

NCAI has also called for funding increases, among other programmatic improvements:

- *Allocate federal funding to increase the number of Federally Recognized Tribal Extension Program (FRTEP) extension agents from the current number of 30 on Indian reservations to at least 100 over the next four years.*
- *Adequately fund FRTEP at \$30 million to account for the additional 1994 land grant institutions that have been eligible to participate since the passage of the 2018 Farm Bill.<sup>106</sup>*

More recently, the Indian Country Extension Commission (ICEC), a group of 17 volunteer agricultural extension experts from around Indian Country, released a report calling for full, non-competitive funding of FRTEP-eligible sites at \$49 million, noting:

*FRTEP's inadequate funding has not kept up with inflation. The initial requested funding of \$10 million was to serve 239 Tribes but in 1991 only received \$1.0 million for 15 positions (see appendix table 4). Thirty years later the program has only increased to \$3 million, funding 35 positions serving 32 Tribes. If the original \$10 million had been allocated and increased at the same rate as the \$1 million start-up fund, the program would have had a \$618 million investment instead of the \$72 million over the past 30 years. This equates to a missed investment of \$544 million not accounting for inflation. The lack of growth in the funding and number of agents is the core issue in the ability of FRTEP programs to meet the increased demand for services.<sup>107</sup>*

*The full list of FRTEP opportunities for future Farm Bills from the ICEC are as follows:*

- *Eliminate the competitive nature of the FRTEP funding and instead use permanent funding similar to County Extension programs. The current 35 FRTEP positions are to be grandfathered in and increased to \$140,000 level per year.*



Photo credit: U.S. Department of Agriculture

- *The new FRTEP positions are to be allocated based on the formula described on page nine for all phases. Increase funding for both the FRTEP and the 1994 Extension programs to quickly make them equivalent to the non-Tribal Extension programs across the nation. Note that the funding path of each program is separate and should not be seen as a single funding line. Both are critical and need to be supported. The recommended increase in allocations of \$30 million for FRTEP will bring the base number of agents up to a solid foundation of 125. The recommendation of a \$19 million increase in allocation to the 1994s is needed to enhance their outreach and programming efforts. Both increases need to be incorporated into base funding requests starting in year five after the initial four-year \$49 million increased funding is expended.*
- *Increase access to additional programs and reduce or remove the matching requirements on all USDA grants for Tribal Extension.*

- *Provide flexibility in how program funds can be used in project resources and activities to allow each Tribal agent to meet the continually changing needs of the Tribal communities.<sup>108</sup>*

These recommendations for FRTEP largely comport with previous recommendations made by the IAC, NCAI, and NFBC as a whole, although the overall funded requested is higher because it has been adjusted for inflation and coronavirus impacts.

### Parity in Funding Opportunities for 1994 Tribal Colleges and Universities

While 1994 institutions consistently gain new access to funding opportunities, extension and other competitive funds are largely awarded to state land grant institutions. With no incentive for 1862 land grants to serve Tribes, Tribal communities, and Tribal farmers and ranchers, and no changes to the funding formulas, the inequity at the heart of the land grant structure will persist. Encouragement of state land grants to open resources and

support to Tribal stakeholders including 1994s, through programs like the New Beginnings for Tribal Students (NBTS), represent continuing opportunities in the Research Title for Indian Country. Competitive funding formulas for grants, which are often associated with inequitable funding distribution for Indian Country, can be re-examined to improve equity.

The Native Farm Bill Coalition (NFBC) continues to support measures to provide parity to TCUs in the Research Title that it advocated for in the 2018 Farm Bill, including:

### TCU Eligibility for all National Institute of Food and Agriculture (NIFA) Funding

Make TCUs eligible for all USDA NIFA funding authorities. TCU extension professionals are not present among enough tribes, and they are currently not provided with even the minimum level of funding to accomplish their work. However, FRTEP, due to its unique history and implementation, must be excluded from this requirement as the circumstances of the FRTEP program is entirely different.

### Tribal Set-Aside, Preference and Funding at NIFA

- Provide Tribal set-asides and preferences within all non-FRTEP NIFA funding authorities while retaining the competitive nature of the funding, which is necessary to continue building capacity and strength.
- Amend the agricultural legal funding authority contained in the 2014 Farm Bill to ensure that competition for the funds occurs and funding is set-aside to be provided to organizations and entities that have a proven specialty and primary focus on Indian law issues that intersect with food and agriculture law.
- Require NIFA funding authorities to focus a portion of their work on building knowledge and capacity in business development unique to Tribal lands and individual Indian owned land, and approach this work separately due

to the unique complexities in Tribal land use, law, regulatory burdens, and related issues. Since business training and the development of solid business planning tools are also necessary, funding would be best focused around risk management education programs and the funding authorities in this area.

- Allow Tribal governments and Tribal organizations 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.
- Include a set-aside in Small Business Innovation Research projects funded through NIFA for Tribal projects leading for commercialization of food products or food systems innovations.
- Ensure that the federal formula funding authorities that support basic research, education, and extension funding for 1862 institutions is revisited to ensure that the institutions receiving such funds based on the federal formula actually provide research, education, and extension services to the Tribal communities, farms, ranches, farmers, and rural citizens who are counted in the formula that establishes funding allocations. At present Tribal interests are considered in establishing formula allocations but there is no follow through to determine if actual projects result in such funding allocations.<sup>109</sup>

NCAI has also noted the need for 1994 parity in specific Research Title authorities, recently recommending that the upcoming Farm Bill:

*Mandate equitable participation in Land-Grant programs for the 1994 Land-Grant Institutions (Tribal Colleges and Universities) in all Smith-Lever (3)(d) administered programs, including grants for Children, Youth, and Families at Risk (CYFAR) and in the McIntire-Stennis (forestry) program.*<sup>110</sup>



Previous NCAI Farm Bill recommendations concerning 1994s also remain relevant:

*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 Programs. 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.<sup>111</sup>*

Additional opportunities, identified by the NFBC in the 2018 Farm Bill process, are also still relevant:

### 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.<sup>112</sup>

TITLE VIII:  
**FORESTRY**



Photo credit: U.S. Department of Agriculture

There are 765 million acres of forests across the United States which provide many social, economic, and ecological resources and uses. The federal government managed 238 million acres (31%) of U.S. forests as of 2017.<sup>113</sup> While the Department of Interior has jurisdiction over many federal land and forestry programs, the U.S. Forest Service, which plays a role in forest management, is part of USDA.

There are four types of federal forestry activities: (1) managing federal forests; (2) forestry assistance through financial, technical, or other resources; (3) sponsoring or conducting research; and (4) international forestry assistance and research.<sup>114</sup> The Forest Service (FS) at USDA is the principal federal forest management agency. The FS administers most forestry assistance programs, conducts forestry research, and leads U.S. international forestry assistance and research efforts. It also manages 145 million acres of U.S. forestlands that are part of the National Forest System (NFS). While other forestry programs appear in other titles, especially in the Conservation Title, five of the six most recent Farm Bills, including the 2018 Farm Bill,<sup>115</sup> have included a separate forestry title.

The 2018 Farm Bill included reauthorization of the **Cooperative Forestry Assistance Act of 1978 (CFAA)**. As part of this reauthorization, Congress repackaged the **Landscape Scale Restoration (LSR) grant program**, which provides competitive grants for science-based projects restoring priority forestlands.<sup>116</sup> The newly developed **State and Private Forest Landscape-Scale Restoration Fund** maintains discretionary funding for these new LSR opportunities. The Healthy Forests Restoration Act of 2003 was reauthorized, but with fewer funds available for hazardous fuel reduction activities.<sup>117</sup>

Congress also repealed several programs in the Forestry Title in 2018, including the **Wood Fiber Recycling Research Program**, the **Forestry**

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*Native forests and woodlands comprise 18.6 million acres, or one third, of the total 57 million acres of Native land held and managed in trust by the federal government.*

**Student Grant Program**, the **Biomass Energy Demonstration project**, and the **Biomass Commercial Utilization Program**.<sup>118</sup>

Significant changes for Indian Country included Tribal eligibility for **Good Neighbor Authority**,<sup>119</sup> which enables FS or the Bureau of Land Management (BLM) to enter into agreements with Tribes for the purposes of implementing various restoration and protection services on National Forest Service lands. The 2018 Farm Bill also applied “638” self-determination authority to the Forestry Title for the first time under the Tribal Forest Protection Act.<sup>120</sup>

## WHY THIS MATTERS TO INDIAN COUNTRY

Tribal Nations have engaged in management and stewardship of forestlands for thousands of years, but as with most Tribal land management activities, colonization disrupted this practice. Still, as recently as 2017, 313 federally recognized Tribes continued to manage forests. Those Tribal forest land holdings ranged in size from 1 acre to more than 5 million acres; roughly 8 million acres of Tribal forests were timberlands.<sup>121</sup> Native forests and woodlands comprise 18.6 million acres, or one third, of the total 57 million acres of Native land held and managed in trust by the federal government. Forests represent one of the principal renewable resources available to Tribes. Across Indian Country, 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 Native

people.<sup>122</sup> The proper health and management of Native forests are crucial to rural economies across America.

The Forest Service shares approximately 4,000 miles of boundaries with Tribal lands, and much of the National Forest System includes lands on which Tribes retain legal rights and interests. As a result, extensive cross jurisdictional coordination with State, Tribal, public, and private partners is necessary. In addition, Forest Service Research and Development and State and Private Forestry provide unique opportunities for Tribal partnerships. Those opportunities include grants, research, technology and knowledge transfer, and engaging in collaborative partnerships in ways that leverage all jurisdictions. Consistent with the Forest Service mission, these actions are intended to achieve positive results and outcomes for ecosystem health, economic stability, social and cultural values, and community well-being. These actions also help create jobs in rural and Tribal communities through economic development support and engagement.<sup>123</sup>

The 2018 Forestry Title changes have benefited Indian Country. Chugachmiut, an Alaska Native 501(c)3 nonprofit Tribal consortium, has partnered with Chugach National Forest through coordination with Region 10 State and Private Forestry. These parties utilize the expanded Good Neighbor Authority (GNA) from the 2018 Forestry Title to perform various forest restoration activities. The agreement allows the forest to enlist the Chugachmiut workforce and their expertise in completing restoration projects associated with forest health issues, including the evolving spruce beetle epidemic that is impacting areas of southcentral Alaska and the Chugach National Forest. The agreement adds capacity to the forest to tackle restoration projects related to forest health issues while at the same time providing employment and training

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*Across Indian Country, 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 Native people.*

opportunities for the Native communities served by Chugachmiut. This provides a framework for accomplishing a wide range of projects related to forest health.<sup>124</sup>

The Yurok Tribe in California is also engaging in GNA and conducting federal climate change planning and research funding.<sup>125</sup> The Tribe is collecting Tribal historical forest data and will incorporate that information into a climate model to run projections, focused primarily on wildfires on its checkerboard reservation. In order to promote forest landscape conditions that are more resilient to climate-related disturbances, researchers will evaluate Yurok forest management practices that are informed by traditional Tribal knowledge.<sup>126</sup>

The “638” authority provided in the 2018 Farm Bill has been implemented as well. In September of 2020, the Tulalip Tribes entered into the first formal agreement under this title to take on watershed restoration in the Mt. Baker-Snoqualmie National Forest. The restoration includes efforts to capture, relocate, and monitor beavers in the South Fork Stillaguamish watershed in Washington State, providing a model for other national forests to follow. Under the agreement, the Tulalip Tribes will receive funds for a multi-year seasonal crew to reintroduce beavers in the South Fork Stillaguamish watershed. As beaver dams maintain healthy habitat and water quality, these reintroductions will help improve instream and riparian landscapes that support endangered salmon, a critical treaty resource to the Tulalip Tribes.<sup>127</sup>



With additional updates in future Farm Bills, the Forestry Title can continue to unlock these kinds of opportunities for Tribal Nations to continue the stewardship over forestlands that they have practiced from time immemorial.

## 2018 FARM BILL PROGRESS

The 2018 Farm Bill included many provisions that are significant to Indian Country:

### **Sec. 8102 – State and Private Forest Landscape-scale Restoration Program**

Includes forest land owned by a Tribe within the definition of “nonindustrial private forest land” as eligible for a competitive grant awarded by USDA in coordination with a state agency.

### **Sec. 8401 – Promoting Cross-Boundary Wildfire Mitigation**

Authorizes \$20 million in grants for cross-boundary hazardous fuels reduction projects and includes tribal land within the definition of non-Federal land as eligible.

### **Sec. 8404 – Water Source Protection Program**

Requires the Secretary to create a Water Source Protection Program to carry out watershed restoration projects on National Forest System land and coordinate/partner with Tribes to develop water source management plans.

### **Sec. 8405 – Watershed Condition Framework**

Requires the Secretary to create a Watershed Condition Framework for National Forest System land in coordination with Tribes and other governments within watershed areas.

### **Sec. 8407 – Healthy Forests Restoration Act of 2003 Amendments**

Allows use of any combination of a 30-year contract, a 10-year cost-share agreement, or permanent easement to enroll Tribal acreage into the plan.

### **Sec. 8624 – Good Neighbor Authority**

Adds Tribes as eligible for Good Neighbor Authority agreements, includes land owned by

a Tribe. Tribes are defined under Section 4(e) of the Indian Self-Determination and Education Assistance Act.

### **Sec. 8643 – Wood Innovation Grant Program**

New program available to Tribal, state, and local governments for advancing the innovative use of wood products, with a priority for the use of existing milling capacity.

### **Sec. 8703 – Tribal Forest Management Demonstration Project**

Permits the Secretaries of Interior and Agriculture to enter into 638 self-determination demonstration project agreements with Tribes to take over the management and functions of the federal government under the Tribal Forest Protection Act (TFPA), provided that the Secretaries make any decisions required to be made by NEPA and TFPA, and provided further, that the 638 contract be subject to negotiation under 25 U.S.C. 5363(b)(2).

These provisions have had an incredibly positive impact in Indian Country. However, some opportunities identified in developing the last Farm Bill have yet to be incorporated, and other new opportunities have yet to be explored at all. The 2023 Farm Bill provides Congress occasion to consider additional opportunities for Indian Country in the Forestry Title.

## EXAMPLES OF OPPORTUNITIES IN THE FORESTRY TITLE

The complex jurisdictional issues involved in Tribal forest management today, which include competing jurisdiction by federal entities in addition to trust obligations and Tribal treaty rights, necessitate subject matter expertise in federal policy enactment. The Intertribal Timber Council (ITC) has been leading on forestry issues in Indian Country since 1976. 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.” Given this longstanding leadership and vision, ITC is the subject matter expert on forestry issues for Indian Country. In the 2018 Farm Bill process, ITC provided several recommendations to Congress. The following recommendations have not yet been enacted:<sup>128</sup>

### **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. 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.*

*As tribes successfully implement cooperative forest management projects on adjacent federal land, the next logical step is co-management where tribes have joint decision making authority regarding management actions. In March 2022, the ITC testified in favor of increased tribal co-management of natural resources (House Natural Resources Committee hearing: “Oversight: Examining the History of Federal Lands and the Development of Tribal Co-Management”).*

### **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) is being accomplished.*

*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.*

### **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.*

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

*(4) 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*

*In comments provided to the Office of Tribal Relations in March 2021; IAC and the broader Native Farm Bill Coalition identified the following barriers and potential solutions within Forestry.<sup>129</sup>*

*Tribal forests provide revenues for many Tribal governments and employment opportunities for Indian people and rural communities. The 2018 Farm Bill created the Tribal Forest Management Demonstration Project which authorizes USDA and the Department of the Interior to enter into “638 contracts” on a demonstration basis, whereby a Tribe or Tribal organization may perform the administrative and management functions of programs implementing the Tribal Forest Protection Act. To date, fewer than five Tribal Nations have reached a formal agreement with the Forest Service on a 638 agreement under the 2018 Farm Bill authority.*

## **Solutions**

- *Support greater tribal participation in Tribal Forest Protection Act (TFPA) projects through the application of 638 contracting authority to TFPA projects on Forest Service or Bureau of Land Management (BLM) lands.*
- *Include Tribes as co-managers in decision-making on project priorities and alternative selection.*
- *Make these 638 authorities permanent and dedicate funding to TFPA 638 contracts. Use of 638 authority provides a funding mechanism through the Forest Service to cover the cost of Tribal staff and resources (prior to the 2018 Farm Bill, those costs would have to be covered by the Tribal Nation in question). However, no funding for this purpose was allocated in the 2018 Farm Bill, so USFS is limited by available funding at the individual National Forest level.*
- *Support Tribal participation in early planning efforts to integrate Tribal management priorities in Forest Service five-year work plans.*

*In NCAI's FY22 Budget Request, NCAI identified the following priorities within the forestry title.<sup>130</sup> Tribal Nations are among the largest owners of forest lands in the United States. Of the approximately 56 million acres of federal Indian trust land, more than 18 million acres are forest lands. Of these, at least six million acres are designated commercial timberlands and approximately four million are designated as commercial woodlands. Tribal forests support a myriad of activities, including subsistence hunting and fishing, as well as food and medicine gathering. Tribal forests also provide revenues for many Tribal governments and employment opportunities for Indian people and rural communities.*

### *Key Recommendations*

#### ***Make USFS implementation of the Tribal Forest Protection Act a priority***

*Tribal forests and forestry programs are working to embrace forest resource management*

*on a more comprehensive scale. Tribal forests share thousands of miles of common boundaries with the U.S. Forest Service, in addition to extensive borders and watersheds with other forest owners and operators. Tribal Nations that engage in timber harvesting are working to expand their participation in the management of neighboring at-risk federal forests through accelerated implementation of the Tribal Forest Protection Act (P.L. 108-278) (TFPA). Individual TFPA projects involve non-tribal neighboring forests, and implementation relies largely upon support from sources other than the BIA. The BIA has contributed to these initiatives where and when it can, but with severe and chronic underfunding already constraining BIA Forestry on trust lands, other federal agencies with lands involved in TFPA need to better honor their own trust obligations with improved support of and engagement in TFPA.*

#### ***Provide Additional Funding to Support P.L. 93-638 Tribal Self-Governance Contracts for Demonstration Projects for Forestry Management.***

*TFPA authorizes the Secretary of Agriculture and the Secretary of the Interior to enter into contracts or agreements with Tribal Nations to carry out Tribally proposed projects on Forest Service or Bureau of Land Management-managed lands under the following criteria: (1) the proposed project must take place on federally managed land bordering or adjacent to Indian forest land or rangeland under Tribal jurisdiction; (2) the conditions on the federally managed land must pose a risk of fire, disease, or other threat to the neighboring Indian forest land or rangeland (or the Tribal community), or the federally managed land must be in need of restoration; (3) the proposed project must not be part of a conflicting arrangement; and (4) the federally managed land presents a feature or circumstance unique to the proposing Tribal Nation (such as a treaty right or biological, archaeological, historical, or cultural circumstances). The 2018 Farm*

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

NCAI has also called for:

***Extend and Expand Tribal Self-Governance under the Indian Self-Determination and Education Assistance Act of 1975 (“638 authority”) in the Forest Service.***

*Specifically:*

- *Allow for greater Tribal participation in Tribal Forest Protection Act (TFPA) projects through the application of “638” contracting authority to TFPA projects on Forest Service or Bureau of Land Management (BLM) lands.*
- *Make these “638” authorities permanent and dedicate funding to TFPA 638 contracts. Use of 638 authority provides a funding mechanism through the Forest Service to cover the cost of Tribal staff and resources (prior to the 2018 Farm Bill, those costs would have to be covered by the Tribal Nation in question). However, no funding for this purpose was allocated in the 2018 Farm Bill, so USFS is limited by available funding at the individual National Forest level.*

- *Codify Tribal participation in early planning efforts to integrate Tribal management priorities in Forest Service five-year work plans.*

***Amend Title VIII, Section 8624 of the 2018 Farm Bill to Include Tribal Nations and Counties.***

*Specifically:*

- *Assuming the Treating Tribes and Counties as Good Neighbors Act (S. 4127/H.R. 4754) or similar legislation does not pass in the next two years, amend the necessary language in the 2018 Farm Bill to give full authority to Tribal Nations and counties to retain and utilize revenue generated from Good Neighbor Agreement projects.*
- *Expand language in Subsection (2)(C)(i)(I) to include Tribal land as authorized to carry out restoration services under Good Neighbor Agreements.<sup>131</sup>*

***Transfer of Lands Back to Tribal Nations***

USDA currently lacks the legal authority to transfer federal forest lands directly back to Tribal governments, but this has been a priority of Tribes and intertribal organizations for years. A future Farm Bill could provide this authority. NCAI has noted,

*Between 1887 and 1934, the federal government took more than 90 million acres, almost two-thirds of all reservation lands, from the Tribes without compensation and sold it to settlers. This amount does not begin to account for the total land loss since colonization. Since 1934, only about 8% of the 90 million acres seized by the federal government has been reacquired in trust status.<sup>132</sup>*

Providing FS with the legal authority needed to facilitate the transfer of federally managed forest lands back to Tribal governments will be one significant step toward correcting historic wrongs.

TITLE IX:  
**ENERGY**



Photo credit: U.S. Department of Agriculture

Energy has become an increasingly important issue as a changing climate, economic factors, and international crises often impact its availability and affordability. Agriculture is an energy-dependent enterprise with a significant need for renewable energy sources to sustain production and feed communities. Today, agriculture relies on energy inputs like fertilizer, water, gasoline, and more. Far from being only a consumer of energy, agriculture can also provide significant energy sources, especially for renewable energy solutions. These include crop production to create biofuels such as ethanol or biodiesel, wind and solar energy creation, the use of anaerobic digesters to convert waste into methane and electricity, and more. Large portions of Indian Country have a high potential for wind, solar, and biomass production, including just under 4% of the nation's wind energy and 5% of the nation's solar energy opportunities.<sup>133</sup>

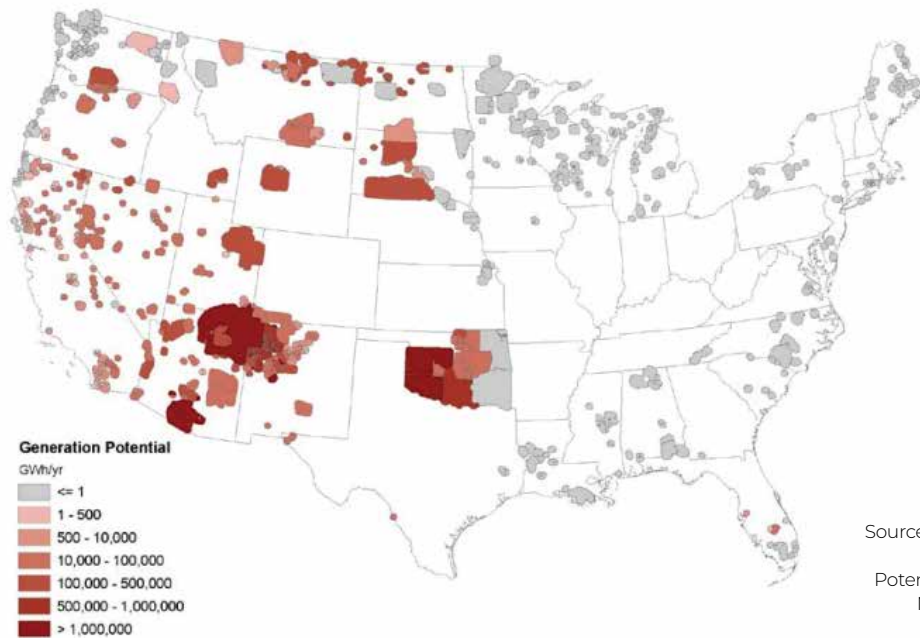
The Energy Title is a relatively recent addition to the Farm Bill, with the first Energy Title appearing in 2002. This title supports agriculture's role in renewable energy through various programs and initiatives, carried out through USDA's Rural Development (RD) agency. Most programs in the Energy Title rely on discretionary funding, meaning they must seek annual funding through the appropriations process rather than receiving mandatory funding directly in the Farm Bill itself. The 2018 Farm Bill continued that trend, including less mandatory funding than ever before and increasing discretionary funding levels. Because Energy Title programs are largely discretionary, they are not as secure or stable in funding as programs elsewhere in the Farm Bill. The 2018 Farm Bill provided new funding authorities to most of the provisions included in 2014, but it repealed the **Repowering Assistance Program** and the **Rural Energy Self-Sufficiency Initiative**<sup>134</sup> and added the **Carbon Utilization and Biogas Education Program**.<sup>135</sup>

One of the now-discretionary programs in the Energy Title is the **Bioenergy Program for Advanced Biofuels Program**.<sup>136</sup> This program encourages crop-based, non-corn biomass production, otherwise known as advanced biofuels. Popular biofuel crops include soybeans, canola, sweet sorghum, sunflower, and switchgrass.<sup>137</sup>

Additional biomass funding can be found through the **Biomass Crop Assistance Program**, which supports biomass feedstock production by providing financial assistance through one-time, annual payments and matching payments. Producers can also enter contracts for eligible biomass crop production. The Energy Title also supports renewable energy research through the **Biomass Research and Development Initiative**.<sup>138</sup>

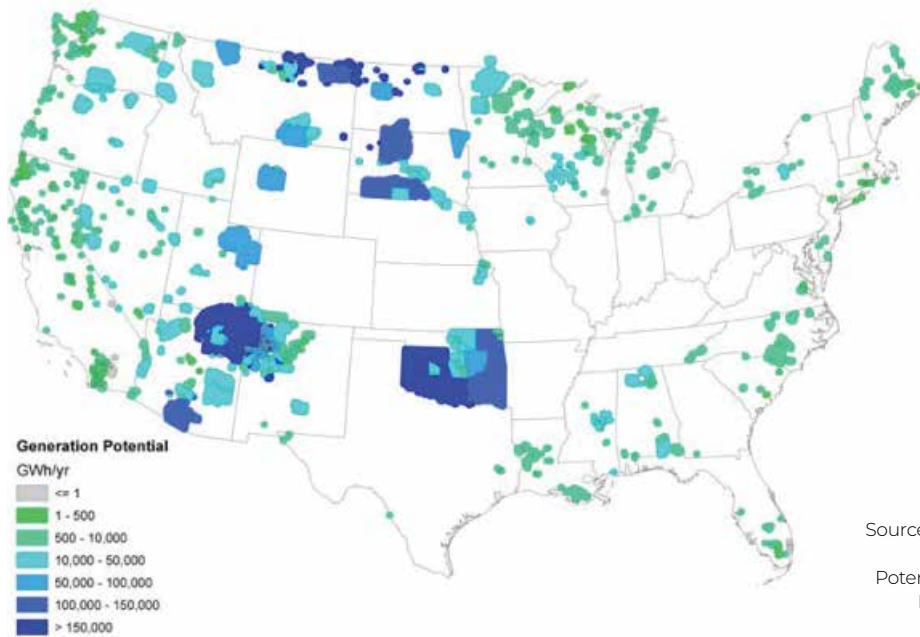
The 2018 Farm Bill's Energy Title also includes the **Biobased Markets Program**, which has been included in the Energy Title since its inception in 2002.<sup>139</sup> The program encourages more use of biobased products, creates federal mandatory biobased product purchase requirements for federal agencies and contractors, and establishes requirements to receive the USDA Certified Biobased Product label.<sup>140</sup> The **Rural Energy for America Program (REAP)** provides financial assistance through grants and guaranteed loans to support energy infrastructure development and improvements as well as grants for research and audits.<sup>141</sup> The 2018 Farm Bill updated the **Rural Energy Savings Program (RESP)**, which encourages the implementation of cost-effective energy efficiency measures for families and rural communities through low and no-interest loans, by providing that participation in RESP will not impact eligibility for other programs authorized by the Rural Electrification Act of 1936.<sup>142</sup> The **Community Wood Energy and Wood Innovation Program** provides matching grants to encourage the installation of wood energy systems or facility development in rural

## Solar Power Generation



Concentrated solar power generation potential by reservation (including extended areas of 10 miles adjacent to the tribal land boundaries).

## Wind Power Generation



Wind generation potential by reservation (including extended areas of 10 miles adjacent to the tribal land boundaries).



communities.<sup>143</sup> The 2018 Farm Bill changed the program's name and updated requirements.

## WHY THIS MATTERS TO INDIAN COUNTRY

Energy independence for Indian Country, developed through renewable energy projects, would vastly reduce energy costs for Native agricultural producers and for Tribal communities in general. With 14% of Indian Country's households lacking access to basic energy needs like electricity, creating more opportunities for Tribes to access Energy Title programs is critical.<sup>144</sup> For producers, Tribally led access to renewable energy at home would reduce energy costs in other areas, and ensure consistent access to vital energy inputs that

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*Energy independence for Indian Country, developed through renewable energy projects, would vastly reduce energy costs for Native agricultural producers*

their operations need. As producers across the country struggle to source energy in the midst of looming global fertilizer shortages and higher oil and gas prices, providing renewable energy for Indian Country's 80,000 farmers and ranchers will stabilize Tribal agricultural operations and help keep food prices from rising. This is a crucial need for Indian Country, where food prices are already higher than average because of Tribal Nation's rural and remote locations.

While there are thousands of acres across Indian Country with the potential for renewable energy investments, lack of funding access and inability to take advantage of incentive programs and financing options have made it more difficult for Indian Country to capitalize on that potential. However, with additional policy support in the Energy Title, the Farm Bill

has the potential to change that narrative and provide greater energy independence support across Indian Country and rural America.

## EXAMPLES OF OPPORTUNITIES IN THE ENERGY TITLE

### Establish Tribal Bio-Based Energy Grants

Establishing a Tribal Bio-Based Energy Development Grant Program in the Energy Title would stimulate energy infrastructure and economic development in Tribal communities and ensure access to low-cost, affordable energy. This type of grant program would help fuel economic development and energy independence across Indian Country and across rural America generally.

NCAI has recommended that such a program be adopted before. In 2013, NCAI noted:

*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.<sup>145</sup>*

## Develop Solar Energy Grant Programs

Whether operating as a Tribal set-aside in the REAP program, which currently funds small and large solar initiatives, or operating as a new program within the Energy Title, increasing Tribal access to grants supporting solar power would provide incentives for Tribes and Native producers alike to utilize other forms of regenerative energy, like harnessing solar potential. With 5% of the nation's total solar potential resting in Indian Country, incredible opportunities exist for renewable energy generation through solar projects. Increasing the use of solar, even on a small scale, could offer a key solution to climate change while also expanding energy independence and profit stability by decreasing the need for—or offsetting the use of—non-renewable sources. This could include solar-powered cold storage, irrigation, livestock watering stations, and water wells as well as using agrivoltaics to produce crops alongside solar generation, and more.

### Create Tribal Set-Asides in the Rural Energy for America Program (REAP)

NCAI has previously recommended a dedicated Tribal set-aside in this program to ensure Tribes have access to these funds:

#### ***Rural Energy for America Program***

*1. Rural Development shall set aside 10% 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.*

### Ensuring Tribal Eligibility in Energy Authorities

As noted above in the excerpt from NCAI recommendations, USDA has previously clarified in a policy memorandum that federally chartered Section 17 Tribal Corporations are



eligible for Rural Development (RD) programs. The lack of clarity over this issue prevented Tribal corporations from making successful applicants to programs throughout RD, which also carries out these energy programs. USDA's policy memo has addressed that issue, but as NCAI noted, enshrining that eligibility in law would further protect Tribal corporations' access to important programs. If Congress were



Photo credit: U.S. Department of Agriculture

to codify this, Congress could further protect Tribal eligibility by clarifying that Tribally chartered corporations are also eligible for RD programming alongside any other corporation. This recognizes and respects Tribal sovereignty, and ensures Tribal businesses have equitable access to funding across RD programs, both in the Energy Title and elsewhere.

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*With additional policy support in the Energy Title, the Farm Bill has the potential to provide greater energy independence support across Indian Country and rural America.*

TITLE X:

# HORTICULTURE



Photo credit: U.S. Department of Agriculture

The Horticulture Title (Title X) became part of the Farm Bill in 2008. The Title covers farmers market and local food programs, funding for research and infrastructure for fruits, vegetables, and other horticultural crops, and organic farming and certification programs. It also provides trade promotion and risk management assistance. While commodity provisions have been included in the Farm Bill since the 1930s, most of the programs addressing specialty crops were initially introduced outside of the Farm Bill. Provisions relating to specialty crops are not only included in the Horticulture Title, but also in several other titles of the Farm Bill.

The 2018 Farm Bill reauthorized many of the existing Farm Bill provisions supporting farming operations in the specialty crop, certified organic agriculture, and local foods sectors. These provisions cover several programs and policies benefiting these sectors, including block grants to states, support for farmers markets, data and information collection, education on food safety and biotechnology, and organic certification, among other market development and promotion initiatives.

The 2018 Farm Bill also combined several pre-existing programs to create the new **Local Agriculture Market Program (LAMP)**. This new umbrella program encompasses the **Farmers Market Promotion Program (FMPP)**, **Local Food Promotion Program (LFPP)**, **Regional Food System Partnerships Program (RFSP)**, and **Value-Added Producer Grants Program (VAPG)**. The bill authorized annual Commodity Credit Corporation (CCC) funding of \$50 million annually.

The 2018 Farm Bill made changes to USDA's **National Organic Program (NOP)** and related programs, including provisions that strengthen the tracking, data collection, and investigation of organic product imports. It also expands mandatory funding for the

### **National Organic Certification Cost Share Program.**

New provisions in the 2018 Farm Bill included the legalization for the first time of the production and sale of industrial hemp. Specifically, Title X legalizes hemp production under USDA-approved plans to self-regulate, develop, and expand hemp production. Both Tribal and State governments can develop hemp plans and regulate hemp production, or use a USDA-developed plan. The Horticulture Title also provided hemp plan development technical assistance to Tribes, and requires States permit a Tribe to transport hemp produced under the approved plan. This provision was a significant change from the 2014 Farm Bill, which authorized industrial hemp production for research purposes only, and in very limited and constricted contexts. The 2018 Farm Bill fully authorized production, and removed hemp and hemp seeds from the Drug Enforcement Administration's (DEA) schedule of Controlled Substances. The 2018 bill also established a regulatory framework to monitor compliance and regulate production. It authorized State and Tribal governments wanting primary regulatory authority over hemp production to submit a plan to USDA for approval. Plans must address: grower location, licensing, procedures for testing, inspections, background checks, disposal, enforcement of violations, and other requirements.

The Farm Bill also directed USDA to issue regulations and guidance to implement a program to create a consistent regulatory framework around production of hemp throughout the United States. After Tribal consultation on proposed regulations, USDA issued regulations which became effective in March 2021. As of May 2022, 50 Tribal Hemp Production Plans have been approved, eight will have USDA issue the producer license, and one is under review.

## WHY THIS MATTERS TO INDIAN COUNTRY

Tribal production of horticulture crops is a growing and vibrant agricultural sector today, with the most recent National Census of Agriculture showing a 24% increase in the counted number of Native-operated fruit/tree nut farms and a 20% increase in Native-operated greenhouse production.<sup>146</sup> With the growth that Indian Country is seeing in this sector, increased Indian Country access to Horticulture Title programs will provide additional funding, technical assistance, and other resource supports for Tribal horticultural activities. This will help Native producers access markets for their products and give this growing sector of Indian Country's agriculture industry long-term stability and viability. In turn, stable growth in horticulture operations in Indian Country will improve local food access for everyone in Tribal communities.

Aside from the economic implications of growing horticulture operations, many of the crops in Indian Country that federal policy today considers to be “produce” and “specialty crops” have been culturally significant foods in Tribal communities for far longer. These are often the traditional or culturally important foods that have nourished Tribal people and been part of Tribal cultural lifeways for thousands of years. With increasing frequency, Tribal Nations—either through Tribal governments, Tribally led organizations, or individual Native food producers—are engaged in cultivating these foods as part of food sovereignty or health equity initiatives. These agricultural activities, in aiming to address nutrition-related health disparities in Indian Country and restore cultural connections with foodways, are utilizing horticulture crops. The Tribes and Native producers growing those foods may be eligible for support through the Horticulture Title programs.

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*Many of the crops in Indian Country that federal policy today considers to be “produce” and “specialty crops” have been culturally significant foods in Tribal communities for far longer.*

## 2018 FARM BILL PROGRESS

The 2018 Farm Bill included several Tribal-specific provisions that opened up Tribal access to new markets, as well as new funding opportunities, technical assistance, and more.

### **Sec. 10102 – Local Agriculture Market Program**

Establishes tribal eligibility in local food programs to grow, process, and market Native foods.

### **Sec. 10116 – Study on Methyl Bromide Use in Response to an Emergency Event**

Requires USDA and EPA to complete a study on the use of methyl bromide in response to an emergency, including a risk-benefit analysis of authorizing use by state, local, or tribal authorities.

### **Sec. 10113 – Hemp Production**

Makes hemp farming legal and authorities new State and Tribal plans and regulations to develop and expand hemp production. Does not preempt State and Tribal laws on hemp production as long as they are consistent with federal law. USDA can provide technical assistance to Tribes and States in the development of plans. Any person with a controlled-substance felony conviction must wait 10 years following their date of conviction to participate.

### **Sec. 10114 – Interstate Commerce [Hemp]**

No State or Tribe can prohibit the transportation or shipment through its territory of hemp or hemp products produced in accordance with an approved Tribal or State Plan.

## EXAMPLES OF OPPORTUNITIES IN THE HORTICULTURE TITLE

### Acknowledging Tribal Sovereignty in Horticulture Operations: Pesticide Regulation

In the 2018 Farm Bill process, the House-passed bill would have amended Sec. 9101 of Title X to enable Tribal Nations to regulate the use of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).<sup>147</sup> That provision was not included in the final Farm Bill, but if included in future legislation would be an acknowledgment of Tribal sovereignty in horticulture operations on Tribal lands.

### Tribal Inclusion in the Specialty Crop Block Grant Program

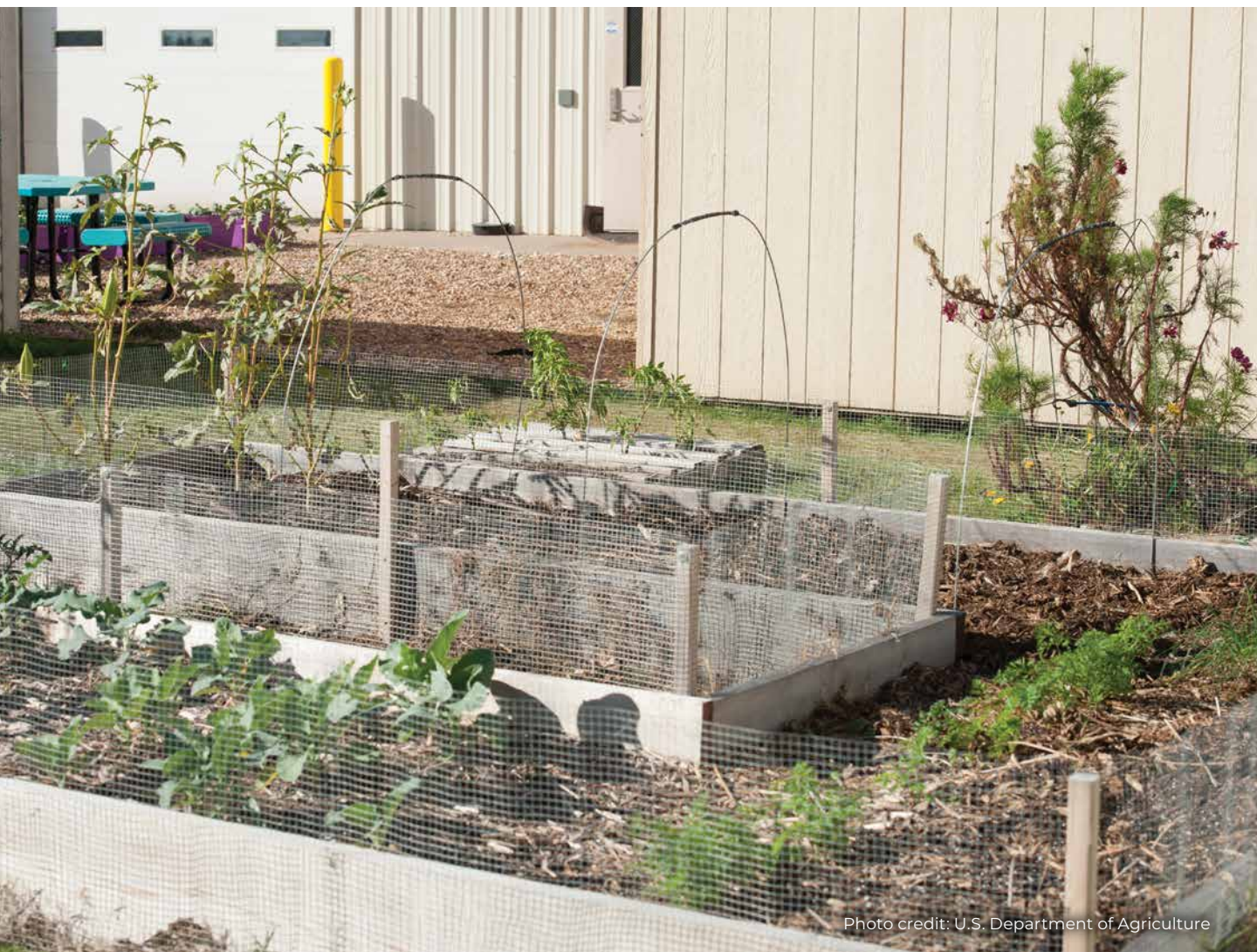
Specialty crops are becoming an increasingly important commodity area within the United States agricultural sector as a whole, as well as within Indian Country. This is particularly true given the increasing demand by the public for year-round, healthy, nutritious, and sustainable food. The **Specialty Crop Block Grant Program**, which provides grant funding directly to departments of agriculture for all 50 states, the District of Columbia, Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Northern Mariana Islands, could be a significant source of additional support for Native producers of specialty crops on Tribal lands. Unfortunately, the program does not consider Tribal governments to be eligible entities for funding. The Farm Bill can change that and include Tribal departments of agriculture or similar Tribal entities as eligible entities. This would promote parity for Tribes, acknowledge Tribal sovereignty, and ensure that Native producers could go directly to their Tribal governments for support instead of having to go to their state department of agriculture, where the unique needs of Native producers growing on Tribal lands are less likely to be understood.

### Support for Tribal Honey and Beekeeping

Insect pollination is integral to food security in the United States. Honeybees enable the production of at least 90 commercially grown crops in North America. Globally, 87 of the leading 115 food crops evaluated are dependent on animal pollinators, contributing 35% of global food production. “Pollinators contribute substantially to the economy of the United States and are vital to keeping fruits, nuts, and vegetables in our diets. Honeybee pollination alone adds more than \$15 billion in value to agricultural crops each year in the United States. Over the past few decades, there has been a significant loss of pollinators, including honeybees, native bees, birds, bats, and butterflies, from the environment. The problem is serious and requires immediate attention to ensure the sustainability of our food production systems, avoid additional economic impact on the agricultural sector, and protect the health of the environment.”<sup>148</sup> Any reports on honey or beekeeping should include the growth and increase in beekeeping and honey operations in Indian Country.

### Support for Tribal Farmers' Markets

Farmers' markets allow for different ways to creatively sell locally grown foods and beverages. Whether it is one farmer setting up a certified produce stand or two or more vendors selling a variety of agricultural products, farmers' markets provide Tribal communities access to products that range from fruits, vegetables, nuts, dairy, meat, fish and baked goods. Improving the access that Tribal producers have to markets has the potential to increase Tribal economic development in a way that is both respectful to the environment and to Tribal culture. Implementing Tribal set-asides of at least 10% in programs like the **Local Food Promotion Programs** would ensure better Tribal access to programs that help build farmers' markets.



## Support for Tribal Organic Producers and Tribal Organic Programs

Agricultural producers with organic certification have a competitive advantage in the marketplace because they are authorized to label and market their products as “organic.” The organic label is now widely recognized, and many consumers are willing to pay a higher price for food products that meet the standards for the organic program. In addition to premium pricing, organic producers can gain access to sales channels that may not be available to conventional producers. Farms wishing to become certified must go through a rigorous process with USDA. Producers in Indian Country face unique challenges which can make the process even more cumbersome

or deter producers from seeking certification. If the Agricultural Marketing Service (AMS) could utilize cooperative agreement authority to work with Tribal organizations and provide better technical assistance to Native producers who wish to transition to organic production, that would provide a more established pathway for Native producers to gain certification.

Additionally, the National Organic Program, authorized by the Organic Foods Production Act of 1990 and amended most recently by the 2018 Farm Bill, lacks parity for Tribal Nations. Currently, only State Organic Programs are able to oversee organic production within their jurisdictions and regulate those farms for compliance with organic standards. If the Farm



Bill included language through the Horticulture Title including Tribal governments alongside States to authorize Tribal Organic Programs as regulators, Tribes could choose as a matter of Tribal sovereignty to operate programs within a Tribe's jurisdiction. This would also ensure that Tribally owned farms that otherwise qualify for organic certification would not have to subjugate their sovereignty to a state government in states where states oversee all organic production.

### Increased Support for Food Safety Compliance and Market Access

The Good Agricultural Practice (GAP) program administered by USDA is a voluntary audit program in which producers can participate and receive certification. GAP audits verify that fruit and vegetable producers are using methods that minimize contamination and food safety risks. Commercial buyers, especially large buyers, often require that producers are GAP-certified before allowing the producer to become a vendor. Without access to GAP certification, producers are at a competitive disadvantage.

Tribal producers have been at a disadvantage due to difficulty in obtaining GAP audits. Limited number of USDA auditors in addition to remote location of Tribal producers has led to insufficient access to audit and certification. USDA should consult with Tribal Nations to develop solutions for solving the audit access inequity. Potential solutions could include USDA prioritizing GAP audits for producers in Indian Country, or at the minimum earmarking a specific number of audits for producers in remote locations. Another option could be creating a program, or at least a contact, to focus on and improve upon audits within Indian Country.

### Protecting Tribal Seeds and Traditional Foods

Tribal Nations have consistently called for better protection for traditional and culturally significant seeds. The structure of federal law makes it challenging to fully protect culturally important seeds, but not impossible. Previous proposed federal legislation has attempted to tackle this issue. The Native American Seeds Protection Act of 2019 was introduced in the U.S. House of Representatives in the 116<sup>th</sup> Congress.<sup>149</sup> Although the bill was ultimately referred to committee and did not pass into law, the proposed language calls attention to a few potential federal solutions to protect Tribal seeds. Among other things, the bill would have mandated that USDA: (1) Engage in consultation with Tribal governments to determine the best means by which seeds may be protected; and (2) Conduct a study that at minimum: identifies Tribal seeds cultivars and assesses current availability; assesses production, storage, and harvesting processes to protect Tribal seed banks; evaluates the extent to which federal law and programs protect Tribal seeds from unlawful or unauthorized use and commercialization; and evaluates methods to preserve and ensure the availability of seed for future generations. After consultation and study, USDA would then develop guidance for ensuring protection and preservation of seeds. Given the serious cultural implications of seed protection and the many varied and complex areas of law implicated in protecting them, an approach like the one suggested in the Native American Seeds Protection Act may be the best starting point. The Farm Bill could include similar language in the Horticulture Title.

TITLE XI:

# CROP INSURANCE



Photo credit: U.S. Department of Agriculture

**R**isk management is a critical component of resilient and sustainable American food and agricultural systems. The agriculture industry is considerably volatile due to a variety of factors, well evidenced by food systems and supply chain disruptions during the coronavirus pandemic which continue today. In addition to “100-year” aka “once-in-a-lifetime” shocks, production and value-added agriculture can be susceptible to weather and natural disasters, international market/global supply chain impacts, input variability, and risk challenges related to inelastic demand and variable supply. The Crop Insurance Title provides programs and supports education and training opportunities for producers to help mitigate these unpredictable risks.

Given the wide variety of climate and geographic regions in the United States, one central challenge facing producers is the need for stable, reliable agricultural risk management strategies. Across legal, financial, labor, and regulatory realms, food production is an inherently risky enterprise. Historically, Congress’s strategy for risk management was reactionary, implementing targeted bills *after* producers faced natural and man-made disasters alike. This resulted in uneven and short-term fixes to complex and expensive issues that impacted the nation’s food supplies and economic health. As the burden of natural disasters fell increasingly on the federal government, Congress gradually moved toward a private sector-focused insurance risk management program.

The Agricultural Risk Protection Act of 2000 established the first **Federal Crop Insurance Corporation (FCIC) Board**.

The Risk Management Agency (RMA) is the primary agency within USDA overseeing the Department’s risk management programs. The FCIC board manages the risk product portfolio, provides guidance under the general supervision of the Secretary of Agriculture, and maintains and creates new risk management

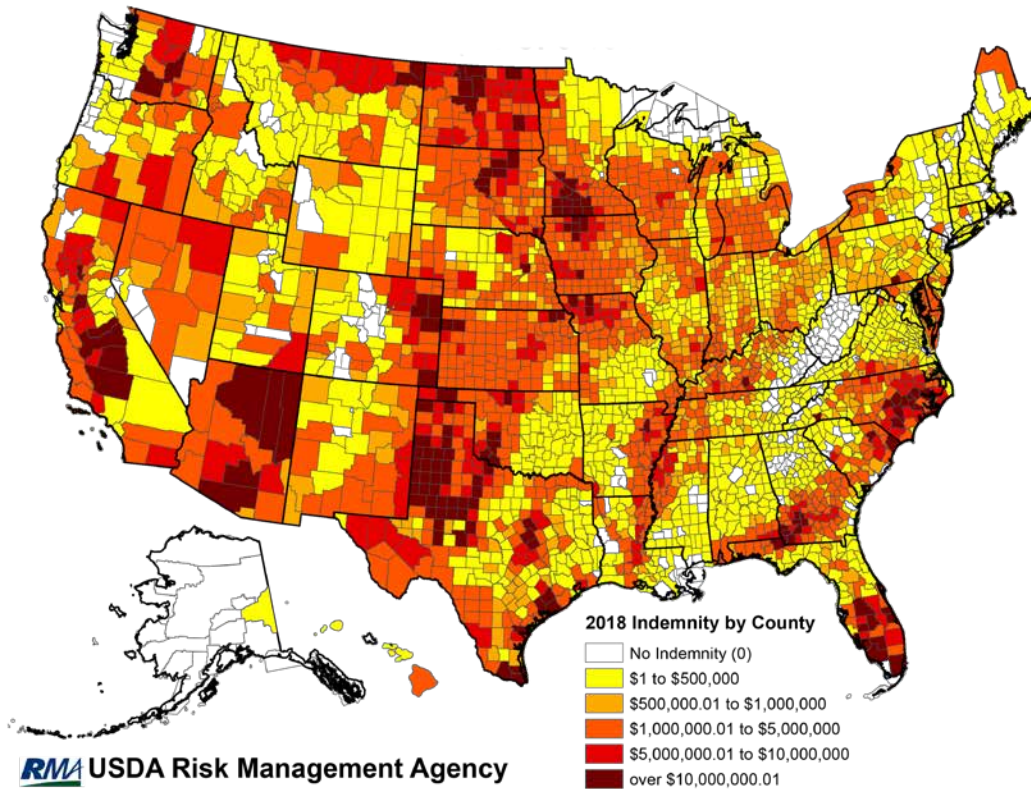
and mitigation programs in agriculture. Its broad authorities permit the board to approve new risk insurance policies, insurance plans, and plan modifications to the RMA Administrator. Over time, subsequent Farm Bills have increased the scope and range of the program, providing ranchers and farmers the ability to anticipate their enterprise’s ability to weather the most challenging weather-related circumstances. Per 2017 data, the FCIC pays on average about 63% of the crop insurance premium while farmer/rancher policy holders pay the remainder of the premium.<sup>150</sup>

The Congressional Budget Office predicted that the 2018 Farm Bill would decrease the amount of money spent for crop insurance by approximately \$104 million from FY19-FY28. However, pandemic-related relief funding for production agriculture has significantly altered this anticipated shift. Indeed, annual comparisons of pre-pandemic and peri-pandemic Risk Management Agency Crop Indemnity Maps reflect a severe increase in Indemnity payouts due to pandemic related disruptions compounded by drought and other types of weather and natural disaster volatility.

The **Standard Reinsurance Agreement** and the **Livestock Price Reinsurance Agreement** establish the terms by which the FCIC provides reinsurance and subsidies on eligible crop insurance contracts sold by an insurance company. An insurance company will not be permitted to write policies for RMA/FCIC without entering into these standard agreements. An insurance company must also be in good standing and in compliance with the state laws where domiciled and have a history of writing policies before it can be considered approval of a Standard Reinsurance Agreement (SRA) or Livestock Price Reinsurance Agreement (LPRA).

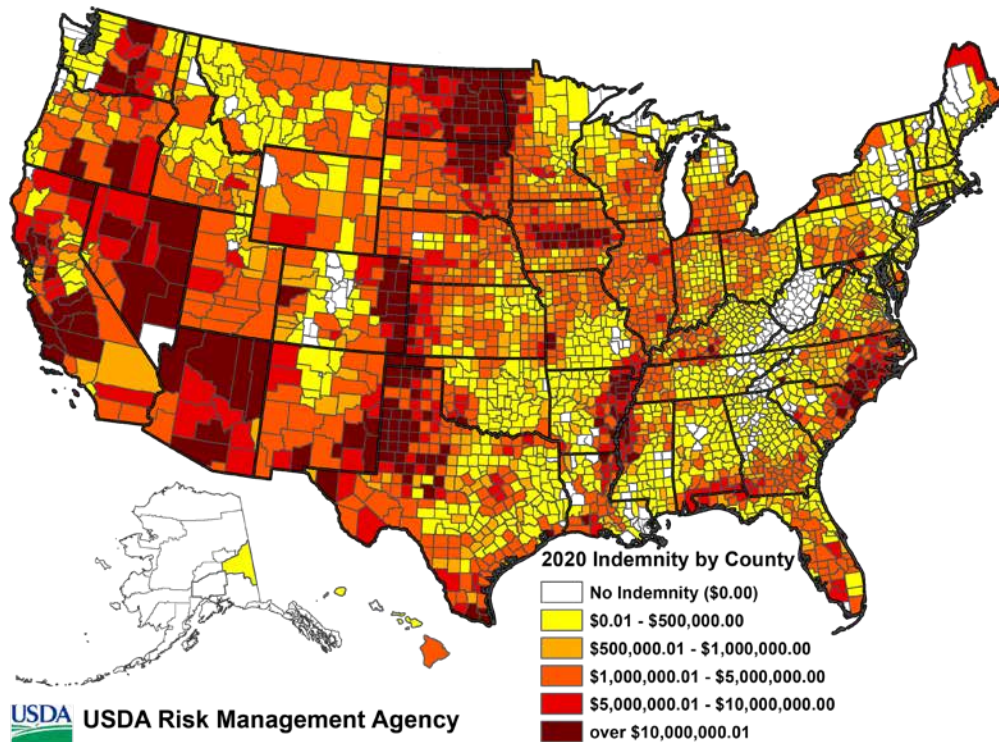
RMA also engages in educational outreach and training for producers/policy holders over areas of risk, risk management best practices,

## 2018 Crops' Indemnities



Source: Risk Management Agency

## 2020 Crops' Indemnities



Source: Risk Management Agency

and the specifics of policies offered under the RMA umbrella. This educational outreach and training is provided through competitive educational grants and through relationships with USDA NIFA through the **Extension Risk Management Education Program**. This program is delivered through four regional centers and a national center which provide education and training for producers through a competitive grant process for eligible entities who will meet with and train producers or plan and provide educational offerings.<sup>151</sup>

Producers who are seeking crop insurance coverage or other risk management products can search online for crop insurance agents who are approved to offer insurance policies in the areas of crops, livestock, or both. Producers can also search online for those approved insurance providers who have entered into reinsurance agreements with RMA as discussed above.<sup>152</sup> These producers are also served by a system of regional offices.

Programs in the Crop Insurance Title remained static in the 2018 Farm Bill, with no repeals of older programs and no introduction of new programs.<sup>153</sup> While the 2014 Farm Bill Crop Insurance Title emphasized growth in the organic production sector, the 2018 Farm Bill emphasized irrigated grain sorghum, irrigated rice production, citrus crops, and hops. While industrial hemp was authorized under the 2018 Farm Bill, no specific insurance product was authorized particularly for hemp coverage; however, USDA did eventually clarify after the 2018 Farm Bill that hemp production would not exclude an operation from being able to access **Whole Farm Coverage** products.<sup>154</sup>

The Crop Insurance Title of the 2018 Farm Bill also saw definition changes to beginning farmer or rancher as being an individual having actively operated and managed a farm or ranch for less than 10 years. This change enables beginning farmers and ranchers to receive federal subsidy benefits for the purposes of

research, development, and implementation of Whole Farm insurance plans. Additionally, the FCIC is authorized to waive certain viability and marketability requirements when considering proposals from private submitters seeking to develop a policy or pilot programs relating to hemp production. Both changes are estimated by the CBO to increase outlays from FY19 to FY28. Hemp was also added to the list of crops eligible for coverage for post-harvest losses which was previously limited to potatoes, sweet potatoes, and tobacco.<sup>155</sup>

Additional changes under the 2018 Farm Bill include a more than 100% increase in the administrative fee for catastrophic level coverage to \$655 per crop per county, up from \$300. Funding was also reduced for research and development. Funding for the expansion of enterprise units across county lines was also reduced compared to the 2014 Farm Bill and review, compliance, and integrity funding was reduced. Changes to how producer benefits are reduced when producing crops on native sod also result in decreased funding outlays.<sup>156</sup>

RMA policy holders are also required to comply with conservation requirements. In order to receive insurance premium assistance, producers must comply with highly erodible land and wetland conservation requirements. If producers are already participating in FSA or NRCS programs, they are likely already engaging in critical conservation practices to comply. Conservation compliance requires producers to have a conservation plan if they plant crops that are tilled annually on highly erodible soil. Producers are prohibited from planting on or destroying wetlands for crop production. Producers who do not comply with the aforementioned can still apply for crop insurance protection but are ineligible for the subsidized premium benefits. Producers who are eligible for FSA or NRCS programs (e.g., commodity, disaster, conservation, etc.) will remain eligible for government-subsidized crop insurance premiums.<sup>157</sup>

The 2018 Farm Bill specifies that the **Noninsured Crop Disaster Assistance Program (NAP)**, which provides loss coverage for weather-impacted commodities that are not covered under existing crop insurance products, is available for crops for which catastrophic risk protection is not available. Alternatively, if such coverage is available, NAP can provide coverage if the offered product is only available under a policy that is in a “pilot” program category, provides coverage for specific intervals based on weather indexes or under a whole farm plan of insurance. The 2018 Farm Bill also extended buy-up coverage for 2019 and future crop years.<sup>158</sup>

Finally, the 2018 Farm Bill also provided for greater inclusion of **underserved producers**, requiring RMA to study and report back to Congress regarding whether or not crop insurance programs are providing adequate coverage to these producers. At this time, it remains unclear if this has been implemented with no RMA report publicly available for review.<sup>159</sup>

Regarding this report, IAC and the Native Farm Bill Coalition have stated:

*The 2018 Farm Bill requires the Secretary of Agriculture and the Federal Crop Insurance Board to use available resources and information to evaluate whether insurance policies and plans currently available in each state are adequately serving “underserved producers,” which includes individual Tribal producers. Upon 30 days of completing this report, the Board is to make it publicly available and submit it to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry, detailing recommendations for executive and legislative actions necessary to improve coverage options for these individuals. Under the legislation, a follow-up report researching this matter is required every three years. Researching whether crop insurance is adequately serving*



*Tribal producers will assist in determining if existing resources are effectively reaching targeting audiences, such as limited resource, beginning, and veteran producers receiving a waiver of administrative fees for catastrophic risk protection under Section 508(b)(5)(E) of the Federal Crop Insurance Act.*

*For over two years after the signing of the 2018 Farm Bill, no public information about this report is available. This information is vital for tailoring agency programs, where necessary, to alleviate any existing administrative issues inhibiting Tribal producer participation in crop insurance. Any action to correct these deficiencies would*



*be premature without an accurate inventory of existing issues to be addressed. RMA should begin conducting this study in collaboration with Tribal stakeholders and technical assistance providers, so that these issues are reported in a nature that is inclusive, comprehensive, and builds toward practical solutions from those with on-the-ground perspectives regarding production agriculture. To fully ensure that participation rates with Tribal producers are measured accurately, any findings on Tribal participation within the larger data sets of underserved producers should be delineated when publishing these findings. The agency should also consider hiring a designated Tribal*

*liaison for any necessary outreach to address these deficiencies, once reported.<sup>160</sup>*

## **WHY THIS MATTERS TO INDIAN COUNTRY**

Crop insurance is a foundational risk management tool for producers. Those insurance products, made available through the Crop Insurance Title, fail to reach Native producers when they are not tailored to respond to the nuances of Indian Country food production systems. Service delivery of subsidized crop insurance is a critical component to the protection of Tribal food and agricultural product production. Limited



Photo credit: U.S. Department of Agriculture

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*Insurance products, made available through the Crop Insurance Title, fail to reach Native producers when they are not tailored to respond to the nuances of Indian Country food production systems.*

access to local authorized crop insurance agents and companies has been a voiced issue in Indian Country due to geographic proximity challenges; hesitancy of insurers to participate in areas that they are unfamiliar with like traditional Indigenous crops, production techniques and practices influenced by traditional ecological knowledge, and with Tribal producers generally; and lack of comparable communication and information sharing with Tribal producer communities about risk management programs.

## **2018 FARM BILL PROGRESS**

The 2018 Farm Bill included one Tribal-specific update:

### **Sec. 11108 – Underserved Producers**

Includes Tribal producers in the definition of underserved producers for review and report of whether crop insurance is providing adequate coverage.

## **EXAMPLES OF OPPORTUNITIES IN THE CROP INSURANCE TITLE**

In December 2020, NCAI recommended the following priorities for the Crop Insurance Title:

- *Mandate additional training on the federal food and agriculture programs available to Tribal and individual Native food producers (including training on their application processes) and empower Indian Country technical service providers to design and conduct those trainings.<sup>161</sup>*



## Pasture, Rangeland, and Forage Policy for Members of Native Tribes

The Senate-passed version of the 2018 Farm Bill would have amended Section 11111 to allow for a 90% subsidy of crop insurance premium for first-time Native livestock commodity producers for pasture, rangeland, and forage crop insurance policies.<sup>162</sup> This opportunity could have significantly increased Native farmer and rancher access to valuable risk management crop insurance products.

## Provider Education Programs

Insurance companies need better training in order to better serve Indian Country. The Farm Bill could facilitate this training by requiring RMA to mandate the development of curriculum specific to providing crop insurance products to Tribal producers detailing the nuance that Tribal farmers and ranchers face in production agriculture on Indian lands. Education programs should not be limited to producers and policy holders but also those crop insurance agents administering federally subsidized crop insurance products.

With minimal change in the 2018 Farm Bill Crop Insurance Title, additional opportunities previously discussed remain:

## 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. Protection for crop failures due to unwanted cross pollination of traditional corn varieties for seed saving purposes by adjacent or encroaching commercial corn varieties is an example of a specific risk Tribal producers face that should have crop insurance coverage. 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.<sup>163</sup>

## Tribal Producer Education Programs

RMA should ensure that at least 10% of all projects funded through its Risk Management Education Program are focused on Tribal producer risk management training needs.<sup>164</sup> Native Farm Bill Coalition stakeholders also expressed a need for better information sharing about existing risk management opportunities. Dedicated RMA programmatic outreach for Indian Country should be incorporated into the 2023 Farm Bill.

## Allow Tribal Insurance Companies to Insure Tribal Producers

RMA should also begin immediately reaching out to the AMERIND Risk, a 100% 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.<sup>165</sup>

## Appoint Tribal Producer to FCIC Board

USDA should consider appointing Tribal producers to fill future vacancies on the FCIC Board.<sup>166</sup>

TITLE XII:

# MISCELLANEOUS



The Miscellaneous Title may sound like the kitchen sink of the Farm Bill, but in reality this final title is often the place to find cross-cutting, innovative programs and authorities that reach across all or most of USDA. For example, the 2018 Farm Bill's Miscellaneous Title included the creation of a Tribal Advisory Council (TAC). Discussed throughout this report, the TAC was designed to sit across all of USDA programming and give Indian Country a strong voice inside the Department. Given the breadth of this policy initiative, the Miscellaneous Title was the most appropriate home for that provision and many others that span USDA agencies and mission areas.

Past Farm Bills have also included authorities benefiting Indian Country in this title, including the 2014 Farm Bill's creation of the **Office of Tribal Relations (OTR)** within the Office of the Secretary (OSEC) at USDA. OTR enjoys a direct reporting line to the Secretary of Agriculture as an acknowledgment of the federal trust responsibility and unique relationship sovereign Tribal Nations have with the federal government. In recent years, USDA administrative restructuring proposed to create an additional layer of programming between OTR and the Secretary's office, something Tribal Nations strongly opposed during Nation-to-Nation consultation with USDA officials. Although the 2018 Miscellaneous Title did not enact a specific provision on this topic, Congress did speak on the issue via the Managers' notes to the 2018 Farm Bill, which stated: *The Managers recognize that the Office of Tribal Relations (OTR) is an important function of USDA and should be within the Office of the Secretary. The Director of OTR serves as USDA's primary point of contact for consultation and coordination with Tribal Governments and should continue to directly advise the Secretary on Tribal issues and policies. The Managers agree that OTR should coordinate with OPPE to provide outreach and assistance to Tribes and*

*Tribal farmers and ranchers to improve access to USDA programs and resources.*

The 2018 Farm Bill also made updates to livestock-focused provisions in the Miscellaneous Title. Congress developed new programs, the **National Animal Disease Preparedness Response Program (NADPRP)** and the **National Animal Vaccine and Veterinary Countermeasures Bank (NAVVCB)**, to help livestock producers respond to risk and promote animal health.<sup>167</sup> Congress also updated definitions to the **Emergency Livestock Feed Assistance Program**, adding llamas, alpacas, live fish, and crawfish as eligible livestock. The title also called for a report from **USDA's Food Safety Inspection Service (FSIS)** on the current services FSIS is offering to small meat processors.<sup>168</sup>

Within the **Historically Underserved Producers** section of this title, the 2018 Farm Bill created the TAC, mentioned above. It also provided for expansion of USDA programs serving beginning farmers and ranchers, as well as veteran farmers and ranchers, and socially disadvantaged producers. Congress also created new programs and initiatives in this subsection, including the **Farming Opportunities Training and Outreach Program** and a new **Office of Urban Agriculture and Innovative Production**.<sup>169</sup>

## WHY THIS MATTERS TO INDIAN COUNTRY

As discussed above, past Farm Bills have included sweeping, departmental changes in the Miscellaneous Title that positively impact Indian Country, including the creation of the Office of Tribal Relations and the TAC. Beyond that, programs across all six subsections of the Miscellaneous Title provide support for producers who are strongly represented in Indian Country: beginning farmers and ranchers, veterans, and programs designed specifically to help support local food production.



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*Programs across all six subsections of the Miscellaneous Title provide support for producers who are strongly represented in Indian Country.*

## 2018 FARM BILL PROGRESS

There were several important Tribal-specific provisions enacted in the 2018 Farm Bill, including:

### **Sec. 12101(b) – Animal Disease Preparedness and Response**

Includes Tribes as eligible entities for a new National Animal Disease Preparedness and Response Program.

### **Sec. 12101(c) – National Animal Vaccine and Veterinary Countermeasures Bank**

The Secretary can enter into cooperative agreements with Tribes regarding the prevention, detection, and rapid response to animal pests and diseases.

### **Sec. 12203 – Agriculture and Food Defense**

State and regional strategic response plans must include the appropriate roles and interactions with Tribal governments.

### **Sec. 12406 – Office of Partnerships and Public Engagement**

Changes the name of the Office of Advocacy and Outreach to the Office of Partnerships and Public Engagement; specific reference to Tribal producers, as socially disadvantaged definition includes Tribal producers.

**Note #17, Title XII Joint Explanatory Statement of the Managers Recognizing Importance of the Office of Tribal Relations**

Recognizes the importance of OTR within OSEC and direct advisement of the Secretary on issues related to Tribal agricultural production.

**Sec. 12301 – Farming Opportunities Training and Outreach**

Creates permanent, mandatory baseline funding for outreach, education, and training for beginning and socially disadvantaged farmers and ranchers, including Tribal farmers and ranchers in the new Farming Opportunities Training Outreach program, and specifies Tribal government and Tribal producer eligibility for grants under the programs.

**Sec. 12302 – Urban Agriculture**

Establishes a new Office of Urban Agriculture and Innovative Production and Advisory Committee; Tribal governments are eligible for urban agriculture grants provided under the new office.

**Sec. 12303 – Tribal Advisory Council**

Creates a new Tribal Advisory Council to provide advice to the Secretary on Tribal-related issues and policies throughout the department.

**Sec. 12409 – Rural Health Liaison**

Establishes a new Rural Health Liaison position to work in consultation with HHS regarding the integration of USDA and HHS programs to support rural health, including outreach to Tribal governments on the availability of grants, information, and programs.

**Sec. 12502 – Emergency Housing for Domestic Violence Victims with Support Animals and Pets**

Provides funding and grants to Tribes and other eligible entities to provide emergency and transitional shelter and housing assistance to domestic violence victims with support animals and pets in coordination with the departments

of Justice, Housing and Urban Development, and Health and Human Services.

**Sec. 12510 – Tribal Promise Zones**

Codifies the existence and access to federal agency resources and technical assistance for Tribal Promise Zones.

**Sec. 12511 – Precision Agriculture Connectivity**

Creates a new task force with a position for an agriculture producer representing Tribal agriculture to look at gaps in broadband connectivity for precision agriculture.

**Sec. 12515 – Prohibition on Slaughter of Dogs and Cats for Human Consumption**

Prohibits the slaughter and transportation of dogs and cats for the purpose of human consumption, with a religious ceremony exception provided for Native people.

**Sec. 12608 – Reauthorization of Rural Emergency Medical Services Training and Equipment Assistance Program**

Includes Tribal government-operated emergency medical services (fire and non-fire based) as eligible for grants for rural emergency medical equipment and training.

## OPPORTUNITIES FOR INDIAN COUNTRY IN THE MISCELLANEOUS TITLE

During the 2018 Farm Bill process, House and Senate-passed versions of the Farm Bill included a handful of provisions that supported Indian Country but were not included in the final legislation. These represent opportunities for future Farm Bills:

**Sec. 11601 – Under Secretary of Agriculture for Farm Production and Conservation**

The House bill included this technical amendment, adding the ability for another official designated besides the Under Secretary for Rural Development of the Department of Agriculture to coordinate the Intertribal

tourism demonstration projects under Native American Business Development, Trade Promotion, and Tourism Act of 2000.

### Sec. 12515 – Tribal Promise Zones

As noted above, Tribal Promise Zone language was included in the final 2018 Farm Bill. However, while the 2018 Farm Bill did codify the existence of Tribal Promise Zones, along with access to federal agency resources and technical assistance for Tribal Promise Zones, the final legislation did not provide for competitive enhancement in federal awards to Tribal Promise Zones, including preference points or priority consideration. The Senate’s bill included this language, but it did not remain in the final bill. This could be amended in future bills to help fully realize the value of Tribal Promise Zone designations.

### Sec. 12518 – Study of Marketplace Fraud of Unique Traditional Foods and Tribal Seeds

The Senate bill also contained a provision that would have directed the Government Accountability Office (GAO) to study the impact of foods and seeds fraudulently marketed as Native American produced goods and seeds and provide an analysis of trademark and intellectual property laws to provide protection. This was not included in the final bill and also represents an opportunity for future Farm Bills.

### NCAI priorities

NCAI priorities for the Miscellaneous Title have included:<sup>170</sup>

#### ***Extend the Buy Indian Act (25 USC 47) and Indian Employment Preference Hiring (25 USC 44) to all USDA Programs.***

*Specifically:*

- Pursuant to the specific treaty and related promises – including through employment and “promise to purchase” provisions – that the United States made to support Native agricultural efforts in perpetuity, amend these two laws to mandate USDA’s adherence to the

*Buy Indian Act and giving preference to Native people in hiring.*

*For example, according to the Act of 1877 regarding the Sioux Nation, Northern Arapaho, and Cheyenne, “The Government will aid said Indians as far as possible in finding a market for their surplus productions, and in finding employment, and will purchase such surplus... for supplying food to those Indians... and will also employ Indians, so far as practicable, in the performance of Government work upon their reservation” (Article 5 of the Act of February 28, 1877 (19 Stat. 254, An act to ratify an agreement with certain bands of the Sioux Nation of Indians, and also with the Northern Arapaho and Cheyenne Indians).  
[...]*

- Mandate additional training on the federal food and agriculture programs available to Tribal and individual Native food producers (including training on their application processes) and empower Indian Country technical service providers to design and conduct those trainings.  
[...]

#### ***Establish a “First Right of Refusal” for Tribal Nations to Purchase Available USDA Lands in Their Ancestral Territories.***

*Specifically:*

- USDA owns and manages many lands which were once part of the ancestral territories of Tribal Nations. Anytime those lands are made available for sale, Tribal Nations who claim them as their ancestral territories should be accorded the first right to purchase.

Since NCAI released these priorities, USDA has committed to examining application of the Buy Indian Act to USDA contracting and purchasing in the Departments’ 2022 Action Plan.<sup>171</sup> This is an encouraging development, but language in the Farm Bill specifically and broadly applying this act to USDA would ensure that USDA can move beyond an examination stage



of the Buy Indian Act's application and into an implementation stage.

### Application of "638" to All USDA Programming; Creation of a 638 Office at USDA

Tribal Nations have identified broader application of "638" authority to USDA programs as a goal for the next Farm Bill, and several specific applications of this opportunity are discussed throughout this report. Rather than accomplishing this goal piece-by-piece (i.e., "638 for FDPIR," "638 for Forestry," "638 for SNAP," etc.), the next Farm Bill could apply 638 authority broadly to the entire Department of Agriculture in the Miscellaneous Title. USDA has committed to expanding self-determination in its Equity Action Plan, but will need statutory changes to make that commitment a reality.<sup>172</sup> To truly realize the promise of this legislative change, the Farm Bill would likely also need

to create contracting authority and staff within USDA, similar to offices within the BIA structure. The logical placement for this type of unit within USDA programs is likely the Office of Tribal Relations, which sits across the Department and could provide a centralized contracting authority.

### Seating the Tribal Advisory Committee

As discussed previously in this report, USDA's failure to seat the TAC has created chaos across multiple 2018 Farm Bill programs impacting Indian Country, including provisions in both the Trade and Rural Development titles. USDA presently has the legal authority, granted by the 2018 Farm Bill, to seat this body, but has not done so. Continuing the TAC's legal authority in any future Farm Bill and requiring additional reporting to Congress may be needed in order for this body to finally be seated.



Photo credit: U.S. Department of Agriculture

## Food Assistance Programs for Urban Indian Communities

FDPIR was created in the 1970s to ensure that reservation communities, which are often incredibly remote and rural, were not left behind as Congress ramped up food assistance programs like Food Stamps, which require participants to have access to a grocery store, convenience store, or similar. For many places in Indian Country, that is as challenging today as it was in the 1970s, and FDPIR remains a critical part of the food security safety net across Indian Country. Thanks to the strong leadership of Tribal elected officials and NAFDPIR, FDPIR today offers more traditional and culturally appropriate foods than ever before in the program's history, as well as fresh fruits and vegetables.

For urban Indian populations who may need food assistance and would benefit from more culturally relevant foods, however, FDPIR is not a viable option, and food assistance programs that are available to urban populations do not prioritize traditional or culturally appropriate foods. Section 12302 of the 2018 Farm Bill

created an Office of Urban Agriculture and Innovative Production. Tribal governments are already eligible entities for programs under this office. Future Farm Bills could create an opportunity within this office and add Urban Indian Organizations (UIOs) as eligible entities to administer a food assistance program focused on urban Indian populations.

UIOs have reported challenges in accessing the wide range of programs across USDA that should be available through the new Office of Urban Agriculture and Innovative Production. To improve service, the definition of UIOs should also be broadened and applied across USDA authorities in the 2023 bill. Additional UIO-focused outreach from various USDA agencies is also needed. Set asides for UIOs in existing UAIP programming would also help to maximize urban Native access to all currently eligible programs through this office; however, UIOs are often careful to note that any additional funding directed to them should not come by taking funds away from Tribal governments or other Tribal entities.



## Recognize Tribal Departments of Food and Agriculture

The NFBC has noted before that “all agencies within the USDA and the Office of Intergovernmental Affairs at USDA [should] permanently recognize and incorporate Tribal Departments of Food and Agriculture into their ongoing interface with other offices of government.”<sup>173</sup> This is likely even more relevant now than it was when this priority was first identified in 2017, as Tribal Nations have heavily invested in food and agricultural entities in their governance structures in response to the coronavirus pandemic. This type of recognition for Tribal governance is part of the trust responsibility that the federal government owes Tribal Nations and including it in legislation would memorialize respect for Tribal sovereignty that is much-needed across USDA authorities.

In addition to these priorities, additional opportunities previously highlighted are still relevant and could be addressed in future Farm Bills:

## 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.

## 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.<sup>174</sup>

## Provide Grant Funding for Meat, Poultry, Fish, and Seafood Processing

The Meat and Poultry Processing Expansion Program authorized by the American Rescue Plan provided relief for producers impacted by the coronavirus pandemic. However, these funds are needed more broadly in Indian Country to support regional food systems and ensure Tribal member access to traditional, affordable, and nutritional meat, poultry, fish, and seafood. Congress should provide additional resources for the Meat and Poultry Processing Expansion Program and ensure that a portion of these funds are used to support fish and seafood processing in Tribal communities.

# CONCLUSION

Indian Country's voice in the Farm Bill process has never been stronger than it is today. The incredible success and growth of the Native Farm Bill Coalition (NFBC) since its formation in 2017 exemplifies the energy Tribal Nations have in the arena of food systems and agricultural investment. With the combined strength of that energy, NFBC's member Tribes, Tribal organizations, and allies saw unprecedented success in the 2018 Farm Bill. The NFBC has continued to be actively engaged in Farm Bill implementation as well, ensuring that the provisions the coalition supported in legislation become reality.

The ground the coalition gained in 2018 is a solid foundation upon which Indian Country can continue to build. The success stories highlighted in this report show the immediate positive impact that federal policy can have on Indian Country agriculture when that policy is crafted with Native producers and Tribal Nations front-of-mind, rather than an afterthought. Continual improvements, led by Indian Country, will contribute to thriving agricultural economies, improved health and food access for all Tribal citizens, and long-term, Tribally reimagined food systems that honor thousands of years of food traditions while looking forward to a bright future.

With another Farm Bill process already underway, the NFBC is ready to offer Indian Country the information and support needed to ensure that Native voices are once again lifted up and acknowledged in this critical piece of farm and food legislation.

## THE WORK CONTINUES.





Photo credit: U.S. Department of Agriculture

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- 638** Self-governance compacting or self-determination contracting authority
- 1994** Tribal College and University Land Grant Institutions
- 2501** Outreach and Technical Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers Program
- ACEP** Agricultural Conservation Easement Program
- ACEP** Average Crop Revenue Election
- AI/AN** American Indian/Alaska Native
- AIARMA** American Indian Agricultural Resource Management Act of 1993
- AGR** Adjusted Gross Revenue
- AGR-L** Adjusted Gross Revenue - Lite
- AMS** Agricultural Marketing Service
- APHIS** Animal and Plant Health Inspection Service
- ARC** Agriculture Risk Coverage
- ARPA** Agricultural Risk Protection Act of 2000
- ARS** Agricultural Research Service, United States Department of Agriculture
- AWEP** Agricultural Water Enhancement Program
- B&I** Business and Industry Program
- BCAP** Biomass Crop Assistance Program
- BFRDP** Beginning Farmer and Rancher Development Program
- BIA** Bureau of Indian Affairs
- BLM** Bureau of Land Management
- CBO** Congressional Budget Office
- CCC** Commodity Credit Corporation
- CDFI** Community Development Financial Institutions
- CF** Community Facilities
- CFP** Community Food Projects
- CFR** Code of Federal Regulations
- CIG** Conservation Innovation Grants
- COOL** Country of Origin Labeling
- CNAFR** Council for Native American Farming and Ranching
- CSP** Conservation Security Program
- CRP** Conservation Reserve Program
- CRP-TIP** Conservation Reserve Program – Transitions Incentives Program
- CSFP** Commodity Supplemental Food Program
- CSP** Conservation Stewardship Program
- DEIP** Dairy Export Incentive Program
- DPDP** Dairy Product Donation Program
- DPPSP** Dairy Product Price Support Program
- ECP** Emergency Conservation Program
- EFRP** Emergency Forest Restoration Program
- ELAP** Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish
- EPA** Environmental Protection Agency
- EQIP** Environmental Quality Incentives Program
- ERS** Economic Research Service, United States Department of Agriculture
- ERME** Extension Risk Management Education
- FACA** Federal Advisory Committees Act
- FAS** Foreign Agricultural Service, United States
- FZS** Department of Agriculture Farm To School
- FCA** Farm Credit Administration
- FCIC** Federal Crop Insurance Corporation
- FCS** Farm Credit System
- FDA** Food and Drug Administration, Department of Health and Human Services
- FDPIR** Food Distribution Program on Indian Reservations, United States Department of Agriculture
- FFAR** Foundation for Food and Agriculture Research
- FFVP** Fresh Fruit and Vegetable Program
- FINI** Food Insecurity Nutrition Incentive Grant Program

# GLOSSARY

- FmHA** Farmers Home Administration, United States Department of Agriculture
- FMPP** Farmers Market Protection Program
- FMLFPP** Farmers Market and Local Food Promotion Program
- FNCS** Food, Nutrition, and Consumer Services
- FNS** Food and Nutrition Service, United States Department of Agriculture
- FOTO** Farming Opportunities Training and Outreach Program
- FSA** Farm Service Agency, United States Department of Agriculture
- FSIS** Food Safety Inspection Service, United States Department of Agriculture
- FSMA** Food Safety Modernization Act
- HELC** Highly Erodible Land Conservation
- HFFI** Healthy Food Financing Initiative
- HFRP** Healthy Forests Reserve Program
- IHS** Indian Health Service, United States Department of Health and Human Services
- IFAI** Indigenous Food and Agriculture Initiative
- IAC** Intertribal Agriculture Council
- ITC** Intertribal Timber Council
- LAMP** Local Agriculture Marketing Program
- LFDP** Livestock Forage Disaster Program
- LIP** Livestock Indemnity Program
- LFPP** Local Foods Promotion Program
- LPRA** Livestock Price Reinsurance Agreement
- LRP** Livestock Risk Protection
- MAP** Market Access Program
- MILC** Milk Income Loss Contract Program
- MPP** Margin Protection Program
- NAP** Noninsured Crop Disaster Assistance Program
- NASS** National Agricultural Statistics Service, United States Department of Agriculture
- NCAI** National Congress of American Indians
- NEPA** National Environmental Policy Act
- NIFA** National Institute of Food and Agriculture, United States Department of Agriculture
- NOP** National Organic Program
- NPDES** National Pollutant Discharge Elimination System
- NRCS** Natural Resources Conservation Service, United States Department of Agriculture
- OAo** Office of Advocacy and Outreach
- OASDFR** Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers
- OREI** Organic Agriculture Research and Extension Initiative
- OSEC** Office of the Secretary, United States Department of Agriculture
- OTR** Office of Tribal Relations, Office of the Secretary, United States Department of Agriculture
- PACA** Perishable Agricultural Commodities Act
- PPQ** Plant Protection and Quarantine
- PLC** Price Loss Coverage
- PSA** Packers and Stockyards Administration
- PVPA** Plant Variety Protection Act
- RBDG** Rural Business Development Grants
- RBEG** Rural Business Enterprise Grant
- RBOG** Rural Business Opportunity Grant
- RCPP** Regional Conservation Partnership Program
- RD** Rural Development Agency, United States Department of Agriculture
- REAP** Rural Energy for America Program
- RHS** Rural Housing Service

- RMA** Risk Management Agency, United States Department of Agriculture
- RMAP** Rural Microentrepreneur Assistance Program
- RUS** Rural Utilities Service, Rural Development, United States Department of Agriculture
- SARE** Sustainable Agriculture Research and Education
- SCBGP** Specialty Crop Block Grant Program
- SCO** Supplemental Coverage Option
- SFMNP** Senior Farmers Market Nutrition Program
- SNAP** Supplemental Nutrition Assistance Program
- SRA** Standard Reinsurance Agreement
- SS** Sacred Site
- SSDPG** Small Socially Disadvantaged Producer Program
- STAX** Stacked Income Protection Plan
- SURE** Supplemental Revenue Assistance program
- SUTA** Substantially Underserved Trust Area
- TAC** Tribal Advisory Committee
- 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

# GLOSSARY

## ABOUT THE NATIVE FARM BILL COALITION

The Native Farm Bill Coalition (NFBC) brings together the voices of Tribes, intertribal organizations, other Native organizations, and non-Native allies around the country to advocate with a strong, unified voice in Washington, D.C., to advance investments in Native agricultural production, rural infrastructure, economic development, conservation, and forestry. The NFBC is the largest-ever coordinated effort in Indian Country around federal food, agriculture, and nutrition policy.

The NFBC was co-founded in 2017 by the Shakopee Mdewakanton Sioux Community, the Intertribal Agriculture Council, the National Congress of American Indians, and the Indigenous Food and Agriculture Initiative as the Coalition's official research partner. Since the Coalition's launch, the NFBC has grown to include more than 300 Tribal Nations, intertribal organizations, and non-Native ally organizations.



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## COLLABORATORS

This report could not have been developed without the expertise of the entire NFBC Executive Committee, including the Shakopee Mdewakanton Sioux Community, the Intertribal Agriculture Council, and the National Congress of American Indians, as well as the Intertribal Timber Council. The IFAI team sends a hearty *wado, chi miigwech*, and *thank you* to each of these invaluable partners.

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