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THE WHITE HOUSE  
Office of the Press Secretary

To John R -  
Many thanks for  
all your fine work  
on this one!  
RR

For Immediate Release

January 14, 1983

FACT SHEET

Indian Policy Statement

SUMMARY

Strong and effective tribal governments are essential in the fight to solve the economic, health, educational, social and other problems of some 735,000 American Indians living on or near reservations. Just as the Federal government deals with States and local governments in meeting the needs of other citizens, so should the Federal government deal with tribal governments in promoting the well-being of American Indians.

The President's Indian Policy Statement emphasizes the Administration's commitment to encourage and strengthen tribal government as called for by President Nixon in 1970 and by Congress in the Indian Self-Determination and Education Assistance Act of 1975. The 1970 policy and 1975 law have not been adequately implemented because the Federal government has inhibited the political and economic development of the tribes. Excessive regulations and self-perpetuating bureaucracy have stifled tribal decisionmaking, thwarted Indian control of reservation resources, and promoted dependency rather than self-sufficiency.

This Administration will reverse this trend by removing obstacles to self-government and by creating a more favorable environment for development of healthy reservation economies. This policy recognizes the diversity of the tribes and the right of each to set its own priorities and goals, and to proceed at its own pace. At the same time, the Federal government will continue to fulfill its traditional responsibility for the physical and financial resources held in trust for the tribes and their members.

Indian tribes are tribal governments because they retain all aspects of their original sovereignty not otherwise given up or taken away by Congress. There are 283 Federally-recognized tribal governments in the United States. In addition, there are 193 Alaska village organizations which are served by the Bureau of Indian Affairs (BIA). According to figures released by the U.S. Census Bureau, there were 1,418,195 American Indians, Eskimos and Aleuts in the United States in 1980.

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MAJOR POLICY POINTS

- The Administration will deal with Indian tribes on a government-to-government basis.
- Tribal governments will be strengthened through these actions:
  - \* Today's signing of H.R. 5470, the Indian Tribal Governmental Tax Status Act. This legislation provides tribes with essentially the same treatment under Federal tax laws as applies to other governments with regard to revenue raising and saving mechanisms.
  - \* Encouragement for tribes to assume responsibilities for services such as the enforcement of tribal laws, developing and managing tribal resources, providing health and social services, and education.
  - \* Designation of the White House Office of Intergovernmental Affairs as liaison for tribes. By moving this function from the White House Office of Public Liaison, the President recognizes that tribal organizations are governments rather than interest groups such as veterans, businessmen and religious leaders.
  - \* A request that Congress expand the authorized membership of the Advisory Commission on Intergovernmental Relations to include a representative of Indian tribal governments.
  - \* Request that Congress repudiate House Concurrent Resolution 108 of the 83rd Congress which called for termination of the Federal-tribal relationship. The Administration wants this lingering threat of termination withdrawn and replaced by a resolution expressing its support of a government-to-government relationship.
  - \* Support for direct funding to Indian tribes under Title XX social services block grants to States. In keeping with the government-to-government relationship, Indian tribes are defined by law as eligible entities and receive direct funding, if they wish, in five block grant programs administered by the Department of Health and Human Services. These and other blocks to the States consolidated dozens of categorical Federal domestic assistance programs to reduce fragmentation and overlap, eliminate excessive Federal regulation, and provide for more local control. This Administration proposes that Indian tribes be eligible for direct funding in the Title XX social services block, the block with the

largest appropriation and the greatest flexibility in service delivery. Grants for social services would be made directly to the tribal governments, at the option of the tribe, and would not be channeled through the States.

-- To solve the severe economic conditions on reservations, the President has:

- \* Established a Presidential Advisory Committee on Indian Reservation Economies. The Commission is to identify obstacles to economic growth in the public and private sector at all levels; examine and recommend changes in Federal laws, regulations and procedures to remove such obstacles; identify actions State, local and tribal governments could take to rectify identified problems; and recommend ways for the private sector, both Indian and non-Indian, to participate in the development and growth of reservation economies. It will advise the President on actions needed to improve reservation economies.
- \* Pledged to work with the tribes to implement expeditiously recently passed legislation allowing tribes to enter into joint venture contracts for the development of natural resources on reservations. This is a major step which will enable the tribal governments to become more proficient in business management while increasing employment opportunities for tribal members and adding to tribal revenues.
- \* Requested funds in the FY 1983 budget to provide seed money to tribes to attract private funding for economic development ventures on reservations.
- \* Initiated legislation which Congress passed to provide \$375 million for building new roads on Indian reservations.

-- This Administration sought suggestions from Indian leaders in developing this policy.

# # # #

THE WHITE HOUSE

WASHINGTON

January 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Indian Policy Statement

Richard Darman has requested comments by close of business January 19, on the above-referenced draft policy statement. A summary of this policy statement was released on January 14. The policy statement announces the Administration's commitment to dealing with Indians on a government-to-government basis. It calls for making tribes eligible for Title XX block grants, amendment of the law establishing the Advisory Commission on Intergovernmental Relations to include a representative of tribal governments (42 U.S.C. § 4273), and renunciation by Congress of House Concurrent Resolution 108, 83rd Congress. H. Con. Res. 108, in my view, reads like motherhood and apple pie:

"It is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, and to end their status as wards of the United States, and to grant them all the rights and prerogatives pertaining to American citizenship."

I am advised by Robert Carleson, Special Assistant to the President in the Office of Policy Development, however, that Indians oppose the notions of "equality" embodied in H. Con. Res. 108 as departures from their "special" status, and that renunciation of H. Con. Res. 108 (itself having no legal effect) has great symbolic value. The decision to urge renunciation of H. Con. Res. 108 was made at a Cabinet Council meeting last fall, and has already been announced in the January 14 summary, so it appears in any event to be water under the bridge.

The policy statement also refers to the newly-established advisory commission on Indian reservation economies. On page 10, last sentence, the commission is described as "charged with the responsibility for exclusively advising the President" on Indian reservation economies. I would

object to any effort to characterize any source of advice to the President -- particularly an advisory committee -- as the exclusive source of advice. The President is entitled to solicit advice from whomever he chooses. I would simply delete the unnecessary word "exclusively."

Attachment

THE WHITE HOUSE

WASHINGTON

January 18, 1983

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF  
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Indian Policy Statement

Counsel's Office has reviewed the above-referenced draft policy statement. The description of the responsibilities of the Advisory Commission on Indian Reservation Economies on page 10 is objectionable in that the commission is described as "charged with the responsibility for exclusively advising the President" on reservation economies. (Emphasis supplied). The Executive Order establishing the commission contains no language suggesting that the commission is to be the exclusive source of advice on the topics within its purview. The President is of course entitled to advice from whatever sources he desires, and we should avoid limiting his flexibility in this regard. I recommend deletion of the word "exclusively."

FFF:JGR:aw 1/18/83

cc: FFFielding  
✓ JGRoberts  
Subj.  
Chron

THE WHITE HOUSE

WASHINGTON

January 18, 1983

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FFF:JGR:aw 1/18/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron



## WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD) 1/1

Name of Correspondent: Richard G. Darman

MI Mail Report User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Draft Indian Policy Statement

**ROUTE TO:**

**ACTION**

**DISPOSITION**

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>W Holland</u>		ORIGINATOR	<u>8310117</u>			<u>1/1</u>
		Referral Note:				
<u>WAT18</u>		<u>D</u>	<u>8310117</u>		<u>S</u>	<u>8310119</u>
		Referral Note:				
			<u>1/1</u>			<u>1/1</u>
		Referral Note:				
			<u>1/1</u>			<u>1/1</u>
		Referral Note:				
			<u>1/1</u>			<u>1/1</u>
		Referral Note:				

**ACTION CODES:**

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet  
to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

**DISPOSITION CODES:**

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

**FOR OUTGOING CORRESPONDENCE:**

Type of Response = Initials of Signer  
Code = "A"  
Completion Date = Date of Outgoing

Comments: \_\_\_\_\_

Keep this worksheet attached to the original incoming letter.  
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Always return completed correspondence record to Central Files.  
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

## WHITE HOUSE STAFFING MEMORANDUM

DATE: 1/17/83 ACTION/CONCURRENCE/COMMENT DUE BY: 1/19/83 c.o.b.

SUBJECT: DRAFT INDIAN POLICY STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	GERGEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WILLIAMSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DOLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

**Remarks:**

May we have your comments on the attached by close of business Wednesday, January 19. Thank you.

Richard G. Darman  
Assistant to the President  
(x2702)

**Response:**

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 17, 1983

FOR: RICHARD G. DARMAN  
FROM: ROBERT B. CARLESON *RBC*  
SUBJECT: Indian Policy Statement

Attached for Senior Staff review is the full text of the President's Indian Policy Statement. This was part of the material approved at the Cabinet Council meeting in August.

The only change that was made at the Cabinet Council meeting was reducing the number of Indian representatives to the American Council on Intergovernmental Relations from 2 to 1. This change is reflected in the attached text.

A summary of the attached text was circulated and approved last week and was released to the public on Friday. Please circulate the full text for final clearance.

We have already received praise from several Indian leaders based on the summary released last Friday. Secretary Watt would like to get the full text out as soon as possible.

## INDIAN POLICY STATEMENT

### Introduction

This Administration believes that responsibilities and resources should be restored to the governments which are closest to the people served. This philosophy applies not only to state and local governments, but also to federally recognized American Indian tribes.

When European colonial powers began to explore and colonize this land, they entered into treaties with sovereign Indian nations. Our new nation continued to make treaties and to deal with Indian tribes on a government-to-government basis. Throughout our history, despite periods of conflict and shifting national policies in Indian affairs, the government-to-government relationship between the United States and Indian tribes has endured. The Constitution, treaties, laws, and court decisions have consistently recognized a unique political relationship between Indian tribes and the United States which this Administration pledges to uphold.

In 1970, President Nixon announced a national policy of self-determination for Indian tribes. At the heart of the new policy was a commitment by the federal government to foster and encourage tribal self-government. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act.

The principle of self-government set forth in this Act was a good starting point. However, since 1975, there has been more rhetoric than action. Instead of fostering and encouraging self-government, federal policies have by and large inhibited the political and economic development of the tribes. Excessive regulation and self-perpetuating bureaucracy have stifled local decisionmaking, thwarted Indian control of Indian resources, and promoted dependency rather than self-sufficiency.

This Administration intends to reverse this trend by removing the obstacles to self-government and by creating a more favorable environment for the development of healthy reservation economies. Tribal governments, the federal government, and the private sector will all have a role. This Administration will take a flexible approach which recognizes the diversity among tribes and the right of each tribe to set its own priorities and goals. Change will not happen overnight. Development will be charted by the tribes, not the federal government.

This Administration honors the commitment this nation made in 1970 and 1975 to strengthen tribal governments and lessen federal control over tribal governmental affairs. This Administration is determined to turn these goals into reality. Our policy is to reaffirm dealing with Indian tribes on a government-to-government basis and to pursue the policy of self-government for Indian tribes without threatening termination.

In support of our policy, we shall continue to fulfill the federal trust responsibility for the physical and financial resources we hold in trust for the tribes and their members. The fulfillment of this unique responsibility will be accomplished in accordance with the highest standards.

#### Tribal Self-Government

Tribal governments, like state and local governments, are more aware of the needs and desires of their citizens than is the federal government and should, therefore, have the primary responsibility for meeting those needs. The only effective way for Indian reservations to develop is through tribal governments which are responsive and accountable to their members.

Early in this nation's dealings with Indian tribes, federal employees began to perform Indian tribal government functions. Despite the Indian Self-Determination Act, major tribal government functions -- enforcing tribal laws, developing and managing

tribal resources, providing health and social services, educating children -- are frequently still carried on by federal employees. The federal government must move away from this surrogate role which undermines the concept of self-government.

It is important to the concept of self-government that tribes reduce their dependence on federal funds by providing a greater percentage of the cost of their self-government. Some tribes are already moving in this direction. This Administration pledges to assist tribes in strengthening their governments by removing the federal impediments to tribal self-government and tribal resource development. Necessary federal funds will continue to be available, but federal funds should be regarded as supplemental. This Administration affirms the right of tribes to determine the best way to meet the needs of their members and to establish and run programs which best meet those needs.

For those small tribes which have the greatest need to develop core governmental capacities, this Administration has developed, through the Assistant Secretary of the Interior for Indian Affairs, the Small Tribes Initiative. This program will provide financial support necessary to allow these tribes to develop basic tribal administrative and management capabilities.

In keeping with the government-to-government relationship, Indian tribes are defined by law as eligible entities and receive direct funding, if they wish, in five block grant programs administered by the Department of Health and Human Services. These and other blocks to the states consolidated dozens of categorical federal domestic assistance programs to reduce fragmentation and overlap, eliminate excessive federal regulation, and provide for more local control. This Administration now proposes that Indian tribes be eligible for direct funding in the Title XX social services block, the block with the largest appropriation and the greatest flexibility in service delivery.

In addition, we are moving the White House liaison for federally-recognized tribes from the Office of Public Liaison to the Office of Intergovernmental Relations, which maintains liaison with state and local governments. In the past several administrations, tribes have been placed along with vital interest groups, such as veterans, businessmen and religious leaders. In moving the tribal government contact within the White House Intergovernmental Relations staff, this Administration is underscoring its commitment to recognizing tribal governments on a government-to-government basis.



Further, we are recommending that the Congress expand the authorized membership of the Advisory Commission on Intergovernmental Relations (42USC4273) to include a representative of Indian tribal governments. In the interim before Congressional action, we are requesting that the Assistant Secretary for Indian Affairs join the Commission as an observer. We also supported and signed into law the Indian Tribal Governmental Tax Status Act which provides tribal governments with essentially the same treatment under Federal tax laws as applies to other governments with regard to revenue raising and saving mechanisms.

In addition, this Administration calls upon Congress to replace House Concurrent Resolution 108 of the 83rd Congress, the resolution which established the now discredited policy of terminating the federal-tribal relationship. Congress has implicitly rejected the termination policy by enacting the Indian Self-Determination and Education Assistance Act of 1975. However, because the termination policy declared in H. Con. Res. 108 has not been expressly and formally repudiated by a concurrent resolution of Congress, it continues to create among the Indian people an apprehension that the United States may not in the future honor the unique relationship between the Indian people and the Federal government. A lingering threat of termination has no place in this Administration's policy of self-government for Indian tribes, and I ask Congress to again express its support of self-government.

These actions are but the first steps in restoring control to tribal governments. Much more needs to be done. Without sound reservation economies, the concept of self-government has little meaning. In the past, despite good intentions, the federal government has been one of the major obstacles to economic progress. This Administration intends to remove the impediments to economic development and to encourage cooperative efforts among the tribes, the federal government and the private sector in developing reservation economies.

#### Development of Reservation Economies

The economies of American Indian reservations are extremely depressed with unemployment rates among the highest in the country. Indian leaders have told this Administration that the development of reservation economies is their number one priority. Growing economies provide jobs, promote self-sufficiency, and provide revenue for essential services. Past attempts to stimulate growth have been fragmented and largely ineffective. As a result, involvement of private industry has been limited, with only infrequent success. Developing reservation economies offers a special challenge: devising investment procedures consistent with the trust status; removing legal barriers which restrict the type of contracts tribes can enter into and reducing the numerous and complex regulations which hinder economic growth.

Tribes have had limited opportunities to invest in their own economies because often there has been no established resource base for community investment and development. Many reservations lack a developed physical infrastructure including utilities, transportation and other public services. They also often lack the regulatory, adjudicatory and enforcement mechanisms necessary to interact with the private sector for reservation economic development. Development on the reservation offers potential for tribes and individual entrepreneurs in manufacturing, agribusiness and modern technology, as well as fishing, livestock, arts and crafts and other traditional livelihoods.

Natural resources such as timber, fishing and energy provide an avenue of development for many tribes. Tribal governments have the responsibility to determine the extent and the methods of developing the tribe's natural resources. The federal government's responsibility should not be used to hinder tribes from taking advantage of economic development opportunities.

With regard to energy resources, both the Indian tribes and the Nation stand to gain from the prudent development and management of the vast coal, oil, gas, uranium and other resources found on Indian lands. As already demonstrated by a number of tribes,

these resources can become the foundation for economic development on many reservations while lessening our Nation's dependence on imported oil. The federal role is to encourage the production of energy resources in ways consistent with Indian values and priorities. To that end, we have strongly supported the use of creative agreements such as joint ventures and other non-lease agreements for the development of Indian mineral resources.

It is the free market which will supply the bulk of the capital investments required to develop tribal energy and other resources. A fundamental prerequisite to economic development is capital formation. The establishment of a financial structure that is a part of the Indian reservation community is essential to the development of Indian capital formation.

Federal support will be made available to tribes to assist them in developing the necessary management capability and in attracting private capital. As a first step in that direction, we provided funds in the FY 1983 budget to provide seed money to tribes to attract private funding for economic development ventures on reservations. As more tribes develop their capital resource base and increase their managerial expertise, they will have an opportunity to realize the maximum return on their investments and will be able to share an increasing portion of the business risk.

It is the policy of this Administration to encourage private involvement, both Indian and non-Indian, in tribal economic development. In some cases, tribes and the private sector have already taken innovative approaches which have overcome the legislative and regulatory impediments to economic progress.

Since tribal governments have the primary responsibility for meeting the basic needs of Indian communities, they must be allowed the chance to succeed. This Administration, therefore, is establishing a Presidential Advisory Commission on Indian Reservation Economies. The Commission, composed of tribal and private sector leaders, is to identify obstacles to economic growth in the public and private sector at all levels; examine and recommend changes in federal law, regulations and procedures to remove such obstacles; identify actions State, local and tribal governments could take to rectify identified problems; and recommend ways for the private sector, both Indian and non-Indian, to participate in the development and growth of reservation economies. It is also to be charged with the responsibility for exclusively advising the President on recommended actions required to create a positive environment for the development and growth of reservation economies.

Numerous federal agencies can offer specialized assistance and expertise to the tribes not only in economic development, but also in housing, health, education, job training, and other areas which are an integral part of reservation economies. It is to the advantage of the tribes, and in the interest of the taxpayers, that the federal role be fully reviewed and coordinated. Therefore, this Administration directs the Cabinet Council on Human Resources to act as a mechanism to ensure that federal activities are non-duplicative, cost effective, and consistent with the goal of encouraging self-government with a minimum of federal interference.

#### Summary

This Administration intends to restore tribal governments to their rightful place among the governments of this nation and to enable tribal governments, along with state and local governments, to resume control over their own affairs.

This Administration has sought suggestions from Indian leaders in forming the policies which we have announced. We intend to continue this dialogue with the tribes as these policies are implemented.

The governmental and economic reforms proposed for the benefit of Indian tribes and their members cannot be achieved in a vacuum.

This nation's economic health -- and that of the tribes -- depends on adopting this Administration's full Economic Recovery Program. This program calls for eliminating excessive federal spending and taxes, removing burdensome regulations, and establishing a sound monetary policy. A full economic recovery will unleash the potential strength of the private sector and ensure a vigorous economic climate for development which will benefit not only Indian people, but all other Americans as well.

(A summary of Administrative initiatives is attached.)

REAGAN ADMINISTRATION INDIAN POLICY INITIATIVES

- Request that Congress repudiate House Concurrent Resolution 108 of the 83rd Congress which called for termination of the Federal-tribal relationship. The Administration wants this lingering threat of termination replaced by a resolution expressing its support of a government-to-government relationship.
  
- Ask Congress to expand the authorized membership of the Advisory Commission on Intergovernmental Relations to include a representative of Indian tribal governments. In the interim, request that the Assistant Secretary of Interior for Indian Affairs join the ACIR as an observer.
  
- Move the White House liaison for federally-recognized tribes from the Office of Public Liaison to the Office of Intergovernmental Relations.
  
- Establish a Presidential Advisory Commission on Indian Reservation Economies to identify obstacles to economic growth and recommend changes at all levels; recommend ways to encourage private sector involvement, and advise the President what actions are needed to create a positive environment for the development and growth of reservation economies.



- Support direct funding to Indian tribes under the Title XX social services block grant to states.
- Sought and obtained funds for FY 1983 to implement the Small Tribes Initiative to provide financial support needed to allow small tribes to develop basic tribal administrative and management capabilities.
- Sought and obtained funds for FY 1983 to provide seed money for tribes for economic development ventures on reservations.
- Supported and signed into law the Tribal Governmental Tax Status Act which will provide tribal governments with the same revenue raising and saving mechanisms available to other governments.
- Support the use of creative agreements such as joint ventures and other non-lease agreements for the development of Indian mineral resources.
- Direct the Cabinet Council on Human Resources to act as a review and coordination mechanism to ensure that federal activities are non-duplicative, cost effective and consistent with the goal of encouraging tribal self-government with a minimum of federal interference.

THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

January 24, 1983

STATEMENT BY THE PRESIDENT

INDIAN POLICY

This Administration believes that responsibilities and resources should be restored to the governments which are closest to the people served. This philosophy applies not only to state and local governments, but also to federally recognized American Indian tribes.

When European colonial powers began to explore and colonize this land, they entered into treaties with sovereign Indian nations. Our new nation continued to make treaties and to deal with Indian tribes on a government-to-government basis. Throughout our history, despite periods of conflict and shifting national policies in Indian affairs, the government-to-government relationship between the United States and Indian tribes has endured. The Constitution, treaties, laws, and court decisions have consistently recognized a unique political relationship between Indian tribes and the United States which this Administration pledges to uphold.

In 1970, President Nixon announced a national policy of self-determination for Indian tribes. At the heart of the new policy was a commitment by the federal government to foster and encourage tribal self-government. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act.

The principle of self-government set forth in this Act was a good starting point. However, since 1975, there has been more rhetoric than action. Instead of fostering and encouraging self-government, federal policies have by and large inhibited the political and economic development of the tribes. Excessive regulation and self-perpetuating bureaucracy have stifled local decisionmaking, thwarted Indian control of Indian resources, and promoted dependency rather than self-sufficiency.

This Administration intends to reverse this trend by removing the obstacles to self-government and by creating a more favorable environment for the development of healthy reservation economies. Tribal governments, the federal government, and the private sector will all have a role. This Administration will take a flexible approach which recognizes the diversity among tribes and the right of each tribe to set its own priorities and goals. Change will not happen overnight. Development will be charted by the tribes, not the federal government.

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In support of our policy, we shall continue to fulfill the federal trust responsibility for the physical and financial resources we hold in trust for the tribes and their members. The fulfillment of this unique responsibility will be accomplished in accordance with the highest standards.

### Tribal Self-Government

Tribal governments, like state and local governments, are more aware of the needs and desires of their citizens than is the federal government and should, therefore, have the primary responsibility for meeting those needs. The only effective way for Indian reservations to develop is through tribal governments which are responsive and accountable to their members.

Early in this nation's dealings with Indian tribes, federal employees began to perform Indian tribal government functions. Despite the Indian Self-Determination Act, major tribal government functions -- enforcing tribal laws, developing and managing tribal resources, providing health and social services, educating children -- are frequently still carried on by federal employees. The federal government must move away from this surrogate role which undermines the concept of self-government.

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Further, we are recommending that the Congress expand the authorized membership of the Advisory Commission on Intergovernmental Relations (42 U.S.C. 4273) to include a representative of Indian tribal governments. In the interim before Congressional action, we are requesting that the Assistant Secretary for Indian Affairs join the Commission as an observer. We also supported and signed into law the Indian Tribal Governmental Tax Status Act which provides tribal governments with essentially the same treatment under federal tax laws as applies to other governments with regard to revenue raising and saving mechanisms.

In addition, this Administration calls upon Congress to replace House Concurrent Resolution 108 of the 83rd Congress, the resolution which established the now discredited policy of terminating the federal-tribal relationship. Congress has implicitly rejected the termination policy by enacting the Indian Self-Determination and Education Assistance Act of 1975. However, because the termination policy declared in H. Con. Res. 108 has not been expressly and formally repudiated by a concurrent resolution of Congress, it continues to create among the Indian people an apprehension that the United States may not in the future honor the unique relationship between the Indian people and the federal government. A lingering threat of termination has no place in this Administration's policy of self-government for Indian tribes, and I ask Congress to again express its support of self-government.

These actions are but the first steps in restoring control to tribal governments. Much more needs to be done. Without sound reservation economies, the concept of self-government has little meaning. In the past, despite good intentions, the federal government has been one of the major obstacles to economic progress. This Administration intends to remove the impediments to economic development and to encourage cooperative efforts among the tribes, the federal government and the private sector in developing reservation economies.

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## Development of Reservation Economies

The economies of American Indian reservations are extremely depressed with unemployment rates among the highest in the country. Indian leaders have told this Administration that the development of reservation economies is their number one priority. Growing economies provide jobs, promote self-sufficiency, and provide revenue for essential services. Past attempts to stimulate growth have been fragmented and largely ineffective. As a result, involvement of private industry has been limited, with only infrequent success. Developing reservation economies offers a special challenge: devising investment procedures consistent with the trust status; removing legal barriers which restrict the type of contracts tribes can enter into and reducing the numerous and complex regulations which hinder economic growth.

Tribes have had limited opportunities to invest in their own economies because often there has been no established resource base for community investment and development. Many reservations lack a developed physical infrastructure including utilities, transportation and other public services. They also often lack the regulatory, adjudicatory and enforcement mechanisms necessary to interact with the private sector for reservation economic development. Development on the reservation offers potential for tribes and individual entrepreneurs in manufacturing, agribusiness and modern technology, as well as fishing, livestock, arts and crafts and other traditional livelihoods.

Natural resources such as timber, fishing and energy provide an avenue of development for many tribes. Tribal governments have the responsibility to determine the extent and the methods of developing the tribe's natural resources. The federal government's responsibility should not be used to hinder tribes from taking advantage of economic development opportunities.

With regard to energy resources, both the Indian tribes and the nation stand to gain from the prudent development and management of the vast coal, oil, gas, uranium and other resources found on Indian lands. As already demonstrated by a number of tribes, these resources can become the foundation for economic development on many reservations while lessening our nation's dependence on imported oil. The federal role is to encourage the production of energy resources in ways consistent with Indian values and priorities. To that end, we have strongly supported the use of creative agreements such as joint ventures and other non-lease agreements for the development of Indian mineral resources.

It is the free market which will supply the bulk of the capital investments required to develop tribal energy and other resources. A fundamental prerequisite to economic development is capital formation. The establishment of a financial structure that is a part of the Indian reservation community is essential to the development of Indian capital formation.

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Federal support will be made available to tribes to assist them in developing the necessary management capability and in attracting private capital. As a first step in that direction, we provided funds in the FY 1983 budget to provide seed money to tribes to attract private funding for economic development ventures on reservations. As more tribes develop their capital resource base and increase their managerial expertise, they will have an opportunity to realize the maximum return on their investments and will be able to share an increasing portion of the business risk.

It is the policy of this Administration to encourage private involvement, both Indian and non-Indian, in tribal economic development. In some cases, tribes and the private sector have already taken innovative approaches which have overcome the legislative and regulatory impediments to economic progress.

Since tribal governments have the primary responsibility for meeting the basic needs of Indian communities, they must be allowed the chance to succeed. This Administration, therefore, is establishing a Presidential Advisory Commission on Indian Reservation Economies. The Commission, composed of tribal and private sector leaders, is to identify obstacles to economic growth in the public and private sector at all levels; examine and recommend changes in federal law, regulations and procedures to remove such obstacles; identify actions state, local and tribal governments could take to rectify identified problems; and recommend ways for the private sector, both Indian and non-Indian, to participate in the development and growth of reservation economies. It is also to be charged with the responsibility for advising the President on recommended actions required to create a positive environment for the development and growth of reservation economies.

Numerous federal agencies can offer specialized assistance and expertise to the tribes not only in economic development, but also in housing, health, education, job training, and other areas which are an integral part of reservation economies. It is to the advantage of the tribes, and in the interest of the taxpayers, that the federal role be fully reviewed and coordinated. Therefore, this Administration directs the Cabinet Council on Human Resources to act as a mechanism to ensure that federal activities are non-duplicative, cost effective, and consistent with the goal of encouraging self-government with a minimum of federal interference.

#### Summary

This Administration intends to restore tribal governments to their rightful place among the governments of this nation and to enable tribal governments, along with state and local governments, to resume control over their own affairs.

This Administration has sought suggestions from Indian leaders in forming the policies which we have announced. We intend to continue this dialogue with the tribes as these policies are implemented.

The governmental and economic reforms proposed for the benefit of Indian tribes and their members cannot be achieved in a vacuum.

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This nation's economic health -- and that of the tribes -- depends on adopting this Administration's full Economic Recovery Program. This program calls for eliminating excessive federal spending and taxes, removing burdensome regulations, and establishing a sound monetary policy. A full economic recovery will unleash the potential strength of the private sector and ensure a vigorous economic climate for development which will benefit not only Indian people, but all other Americans as well.

Attachment

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## REAGAN ADMINISTRATION INDIAN POLICY INITIATIVES

- Request that Congress repudiate House Concurrent Resolution 108 of the 83rd Congress which called for termination of the federal-tribal relationship. The Administration wants this lingering threat of termination replaced by a resolution expressing its support of a government-to-government relationship.
- Ask Congress to expand the authorized membership of the Advisory Commission on Intergovernmental Relations to include a representative of Indian tribal governments. In the interim, request that the Assistant Secretary of the Interior for Indian Affairs join the ACIR as an observer.
- Move the White House liaison for federally-recognized tribes from the Office of Public Liaison to the Office of Intergovernmental Affairs.
- Establish a Presidential Advisory Commission on Indian Reservation Economies to identify obstacles to economic growth and recommend changes at all levels; recommend ways to encourage private sector involvement, and advise the President what actions are needed to create a positive environment for the development and growth of reservation economies.
- Support direct funding to Indian tribes under the Title XX social services block grant to states.
- Sought and obtained funds for FY 1983 to implement the Small Tribes Initiative to provide financial support needed to allow small tribes to develop basic tribal administrative and management capabilities.
- Sought and obtained funds for FY 1983 to provide seed money for tribes for economic development ventures on reservations.
- Supported and signed into law the Tribal Governmental Tax Status Act which will provide tribal governments with the same revenue raising and saving mechanisms available to other governments.
- Support the use of creative agreements such as joint ventures and other non-lease agreements for the development of Indian mineral resources.
- Direct the Cabinet Council on Human Resources to act as a review and coordination mechanism to ensure that federal activities are non-duplicative, cost effective and consistent with the goal of encouraging tribal self-government with a minimum of federal interference.

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MEMORANDUM

*Chron  
Indian file*

THE WHITE HOUSE

WASHINGTON

March 2, 1984

FOR: FRED F. FIELDING  
FROM: WENDELL L. WILLKIE *W2W*  
SUBJECT: Short v. U.S.-Indian Tribal Governments

Craig Fuller has requested that we review the question of whether the United States should petition for certiorari in the above-referenced case from a recent Federal Circuit Court interlocutory decision. That decision concerns the Government distribution of timber revenue proceeds to Indians residing on a given reservation. In relevant part the Court's decision turned on its construction of the statutory term "tribe" as meaning "the general Indian groups communally concerned with the proceeds - not an officially organized or recognized Indian tribe."

This interpretation of "tribe," benefitting non-members of a recognized tribe, is perceived by Indian tribal governments generally as posing a substantial threat to tribal authority and leadership. Reportedly, over 100 Indian tribal governments have written the Solicitor General urging the Government to petition for certiorari in Short. If allowed to stand, they argue, the decision may adversely affect the existing relationship between the United States and federally-recognized Indian tribes. This result would therefore be contrary to current Administration policy, as reflected in the Statement by the President on "Indian Policy" on January 24, 1983. This policy seeks to strengthen tribal self-government and is committed to dealing with Indian tribes on a government-to-government basis.

At John Roberts' suggestion, I spoke with Henry Habicht, Assistant Attorney General for Land and Natural Resources, in order to obtain background information concerning this case. He advised me that, as of two weeks ago, Rex Lee was strongly disposed not to petition for certiorari. As he explained it, the interests of the tribal governments and the United States are largely parallel. This has been reflected in the parties' substantive positions in this litigation. The tribes correctly perceive a potential erosion of their rights; the Government, as trustee of Indian resources, is very concerned not to see previous distributions to tribes challenged by Indians proceeding outside of the tribal framework. Nonetheless, Lee, who has met with tribal lawyers, is reported to have concluded that a petition would be inadvisable at this time for the following reasons:

(1) Two earlier petitions from interlocutory rulings in this case were denied; review at this time is considered unlikely.

(2) The adverse ruling here is very fact-specific and reflects an established law of the case. Supreme Court review runs the risk of affirming and thus expanding into broad applicability a decision that otherwise could arguably be limited to its own facts.

In essence, I am advised that a decision not to petition would be predicated on litigation strategy rather than on any substantive differences with the tribal governments.