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Farm Bill Primer: Support for Tribal Food and Agriculture

The 2018 farm bill (Agriculture Improvement Act of 2018; P.L. 115-334) expanded federal farm program support for tribal agricultural producers and communities. Congress further enhanced community and economic development for federally recognized Tribes in the Indian Community Economic Enhancement Act of 2020 (P.L. 116-261) and provided additional support for historically underserved agricultural producers, including tribal producers, in the American Rescue Plan Act of 2021 (P.L. 117-2). As Congress debates the next farm bill, tribal groups are calling for expanding tribal self-determination authority and access to production services and credit, nutrition and food sovereignty, and economic development for tribal producers and communities.

Tribal Agricultural Production

In statute, support for Tribes references the definition of *Indian tribe* in the Indian Self-Determination and Education Assistance Act (ISDEAA; P.L. 93-638, 25 U.S.C. §5304(e)). In 2024, the Bureau of Indian Affairs (BIA) of the Department of the Interior (DOI) identified the 574 federally recognized Tribes eligible to receive services, including farm program support. Some programs reference *tribal groups* or *Indian tribal organizations* that are defined in statute or regulation. Alternatively, some programs authorize federal benefits that can be provided to individual, self-identified Native American, American Indian, Alaska Native, or Native Hawaiian producers.

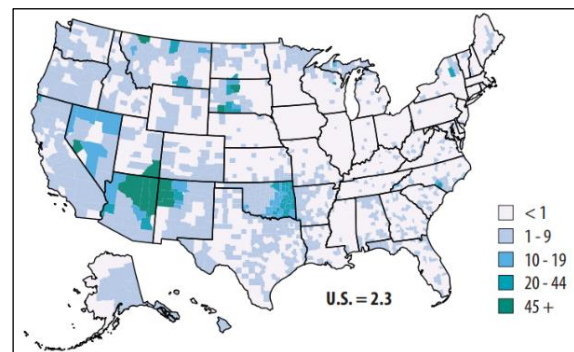
In 2022, a reported 78,316 producers self-identified as American Indian and Alaska Native producers across 58,336 U.S. farms and ranches, according to the U.S. Department of Agriculture (USDA). These agricultural producers accounted for 2.3% of all U.S. producers. Sales totaled \$6.5 billion in 2022, or about 1% of all U.S. farm-level sales (**Figure 1**). Most tribal producers (56%) are located in Oklahoma, Arizona, and New Mexico. USDA reports other leading states were Texas, California, Montana, Missouri, Arkansas, Oregon, and South Dakota. These operations cover 63 million acres of farm and grazing land. Tribal producers, however, may lack legal title to land often held in trust by the federal government. (See CRS Report R46647, *Tribal Land and Ownership Statuses: Overview and Selected Issues for Congress*.)

Federal Role in Tribal Agriculture

As the lead agency implementing many federal statutes addressing Tribes, BIA provides agricultural programs and services to Tribes, often contracting with and transferring funds to USDA for farm programs (e.g., the Cooperative Extension System). In 1993, Congress enacted the American Indian Agricultural Resource Management Act (AIARMA; P.L. 103-177, 25 U.S.C. Ch. 39) intended to “improve the management, productivity, and use of Indian

agricultural lands and resources” and citing the need to uphold the federal trust responsibility, promote tribal self-determination, and emphasize agriculture’s significance to tribal economic development. Since AIARMA’s enactment, BIA has been managing “tribal agricultural programs.” Congress further amended USDA programs to expand tribal access to farm credit and research/extension services (P.L. 100-233; P.L. 101-624). In 1994, Congress added Tribal Colleges and Universities (TCUs or 1994 Institutions) to the land-grant university system (P.L. 103-382).

Figure 1. American Indian/Alaska Native-Operated Farms as Percent of Total Farms by County, 2022



Source: USDA, 2022 Census of Agriculture, “American Indian/Alaska Native Producers,” June 2024. Based on 40,621 farms with producers who self-identify as American Indian/Alaska Native (AI/AN) alone, excluding those identified as AI/AN in combination with another race. ISDEAA allows a Tribe or tribal organization to negotiate contracts to administer certain programs, functions, services, or activities that a federal agency would otherwise perform for a Tribe and its members. These are known as *self-determination (638) contracts* or *638 contracts* and must conform to statutory and regulatory standards. Since ISDEAA’s enactment, such contracts mostly have been limited to DOI or Department of Health and Human Services programs. The 2018 farm bill (§8703) authorized USDA to enter into demonstration project contracts allowing a Tribe or tribal organization to negotiate a 638 contract to perform certain functions relating to proposed forest protection projects on Forest Service or Bureau of Land Management lands that are adjacent to tribal lands. The 2018 farm bill (§4003) also authorized USDA to contract with a Tribe or tribal organization to perform purchasing functions under its Food Distribution Program on Indian Reservations (FDPIR). Unlike other agencies with ISDEAA authority, USDA was authorized to enter into 638 contracts but not *self-governance compacts*. (See CRS Report R48256, *Tribal Self-Determination Authorities: Overview and Issues for Congress*.)

USDA has established various tribal policies and programs. USDA has a formal tribal consultation policy and the

Office of Tribal Relations to conduct formal, government-to-government meetings between USDA officials and Tribes. In 2021, USDA launched its Indigenous Food Sovereignty Initiative—*indigenous food sovereignty* broadly refers to developing and strengthening Tribes' efforts to build and protect tribal traditional food systems and allowing Tribes to respond to their own dietary needs. USDA's Equity Action Plan includes policies promoting tribal self-determination to enable greater tribal decisionmaking. USDA's Equity Commission also includes tribal representation. These efforts, in part, address concerns related to equity and access to USDA services highlighted in the class action lawsuit, *Keepseagle v. Vilsack*. In that case, tribal producers sued USDA under the Equal Credit Opportunity Act (15 U.S.C. §1691), claiming the department discriminated against them when they tried to participate in USDA farm loan programs between 1981 and 1999. The 2010 settlement in that case provided \$760 million for approved claims for more than 3,600 Native farmers and ranchers.

Tribal Views on the 2018 Farm Bill

The Native Farm Bill Coalition (NFBC), representing more than 170 Tribes and other related organizations, claims tribal agriculture has “been largely relegated to the margins of farm bill discussions for decades,” thus “missing out on major opportunities to protect and advance their interests.” A 2017 report, *Regaining Our Future*, highlights a range of concerns raised by NFBC and other groups including the First Nations Development Institute, the Indigenous Food and Agriculture Initiative, the Intertribal Agriculture Council, and the Intertribal Timber Council. The 2018 farm bill contained 63 provisions characterized by tribal agriculture advocates as “unprecedented” farm policy gains for tribal agriculture, including USDA's tribal self-determination authorities. Provisions span USDA programs related to production, rural infrastructure, economic development, conservation, forestry, and nutrition assistance. See CRS In Focus IF11287, *2018 Farm Bill Primer: Support for Indian Tribes*.

As Congress debates the next farm bill, NFBC's priorities include proposed changes across each farm bill title (see **text box**). Priorities include expanding tribal self-determination authority for Tribes in USDA programming, including Supplemental Nutrition Assistance Program (SNAP) and other domestic food assistance programs. Other provisions would provide greater autonomy for TCUs and tribal extension services and prioritize Tribes in USDA grants, among other priorities. NFBC also has facilitated a Tribal Caucus for Hunger, Nutrition, and Health. Priorities cover expanding tribal food systems and emphasizing “the important role that food sovereignty plays in improving the future” for Tribes and indigenous communities.

Considerations for the Next Farm Bill

Legislation introduced in the 118th Congress indicated continued support for tribal producers and communities. NFBC asserts that the Farm, Food, and National Security Act of 2024 (H.R. 8467), as ordered to be reported, contained 46 provisions referencing tribal priorities. The Rural Prosperity and Food Security Act of 2024 (S. 5335), as introduced, reportedly also contained more than 70

provisions referencing tribal priorities. Some provisions included in the House and Senate committee bills were part of other introduced legislation that would have given Tribes more control over a range of USDA-provided community services. These include bills that would have expanded self-governance authority for certain community services (e.g., H.R. 1450/S. 697, H.R. 3307, H.R. 3964, S. 2457, S. 2489, S. 2540) or would have given Tribes more control over SNAP administration (e.g., H.R. 5970, S. 2912, S. 2563). Other bills would have established additional services for tribal communities (e.g., H.R. 559/S. 2951, H.R. 1020, H.R. 6949, H.R. 6147/S. 3185, S. 1780, S. 1156) and others would have more broadly expanded support for tribal producers. Such efforts generally seek to address perceived discrimination and inequities by some historically underserved producers in accessing USDA services and assistance—such as through loan forgiveness, targeted assistance, and instituting reforms at USDA. Congress may consider these or other policy changes in the next farm bill or may choose to maintain existing policies.

NFBC's Proposed Farm Bill Priorities

Title I, Commodities: Establish tribal representatives on local county committees. Amend livestock disaster assistance.

Title II, Conservation: Provide flexible conservation program delivery and alternative funding arrangements. Recognize alternative conservation practices and tribal priorities.

Title III, Trade: Promote parity in USDA trade programs. Support trade and address fraud in tribally produced foods.

Title IV, Nutrition: Amend FDPIR, making permanent/expand self-determination (638 authority). Expand parity/sovereignty under SNAP and the Emergency Food Assistance Program. Expand purchases of tribally procured/produced foods.

Title V, Credit: Expand access to credit and authorize a pilot program relaxing certain requirements and providing flexibility.

Title VI, Rural Development: Expand tribal set-asides and the Substantially Underserved Trust Area program designations.

Title VII, Research: Expand youth grants, set-asides, and TCU eligibility in USDA research, extension, and education funding.

Title VIII, Forestry: Transfer lands back to Tribes. Extend/expand 638 authority in USDA forestry programs. Give full authority for Tribes to retain/utilize revenue from Good Neighbor Agreement projects. Protection for Sacred Sites.

Title IX, Energy: Ensure tribal eligibility and set-asides in USDA energy programs. Develop tribal solar/bio-based grants.

Title X, Horticulture: Protect Native seeds and traditional foods. Expand support for Tribes under USDA horticulture programs. Acknowledge tribal sovereignty in pesticide regulation.

Title XI, Crop Insurance: Allow tribal insurance companies to insure tribal producers, and appoint tribal producers to oversight board. Expand training and technical assistance. Develop crop insurance for traditional foods/livestock.

Title XII, Miscellaneous: Apply 638 authority to all USDA programming, and create a 638 Office at USDA. Recognize tribal departments of agriculture. Allow Tribes to buy certain available USDA lands. Expand assistance, hiring preferences, procurement, and collaboration/cooperation within USDA and other federal agencies. Increase food assistance programs for urban Indian communities. Study fraud/cultural appropriation of Native foods.

Source: CRS from NFBC's website.

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