

Nos. 20-543, 20-544

In the
Supreme Court of the United States

STEVEN T. MNUCHIN, SECRETARY OF TREASURY,
Petitioner,

v.

CONFEDERATED TRIBES OF THE CHEHALIS
RESERVATION, *et al.*,
Respondents.

ALASKA NATIVE VILLAGE CORPORATION
ASSOCIATION, INC., *et al.*,
Petitioners,

v.

CONFEDERATED TRIBES OF THE CHEHALIS
RESERVATION, *et al.*,
Respondents.

On Petition For Writ Of Certiorari To The United States Court of
Appeals for the District of Columbia Circuit

**MOTION FOR LEAVE TO FILE BRIEF OF
AMICI MEMBERS OF CONGRESS AND BRIEF OF AMICI
CURIAE U.S. SENATORS LISA MURKOWSKI AND DAN
SULLIVAN, AND U.S. CONGRESSMAN DON YOUNG IN
SUPPORT OF PETITIONS FOR WRIT OF CERTIORARI**

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**MOTION FOR LEAVE TO FILE BRIEF OF
AMICI MEMBERS OF CONGRESS**

Pursuant to Supreme Court Rule 37.2(b), *Amici* Members of Congress, U.S. Senators Lisa Murkowski and Dan Sullivan, and U.S. Congressman Don Young, respectfully present this Motion for Leave to File Brief of *Amici* Members of Congress ("Motion"). Counsel has obtained written consent to the filing of this brief from Petitioner Alaska Native Village Corporation Association, Inc., *et al.*; Petitioner Secretary Mnuchin; Respondent Confederated Tribes of the Chehalis Reservation, *et al.*; and Respondent Cheyenne River Sioux Tribe, *et al.* Respondent Ute Tribe of Uintah and Ouray Reservation did not consent.

I. Interests of *Amici Curiae*

Amici Members of Congress submit this Motion because the indigenous people of Alaska, the state we are charged with representing, will suffer severe negative consequences because of the continued withholding of the CARES Act Title V relief funds by the reading out of the words Alaska Native 'regional or village corporation,' which we included in the Indian Self-Determination and Education Assistance Act ("ISDEAA") definition of 'Indian tribe.' Specifically, Congressman Young was on the House Subcommittee for Indigenous Peoples of the United States f/k/a Subcommittee on Indian, Insular, and Alaska Native Affairs. This Subcommittee adopted the amendment to ISDEAA to include Alaska Native 'regional or village corporation' into the ISDEAA definition of 'Indian tribe' prior to its enactment. Since that time, the definition has been reaffirmed by congressional action, explicitly through legislation, and used consistently in agency practice. Indeed, we

consider the ISDEAA definition the 'gold standard' when we want legislation to include *all* indigenous people of our state, regardless of whether they are enrolled in a Federally Recognized Tribe ("FRT"), Alaska Native Corporation ("ANC"), neither, or both.

The DC Circuit Court's decision stands in opposition to: (1) our long established practice of employing the ISDEAA definition when we want to include the entire indigenous population of our state, regardless of tribal affiliation; (2) strong federal agency practice in place for over 40 years, which employs the definition as written and reaffirmed by Congress; (3) the long-established precedent of the Ninth Circuit; and (4) the systems in Alaska that are working to receive and deliver programs and services to the indigenous people of our state. These systems are unique because they rely on both ANCs and FRTs eligibility as Indian tribes to receive and deliver services to the indigenous people of Alaska. We use the term indigenous people, Alaska Native people, and Indians interchangeably as the Alaska Native Claims Settlement Act ("ANCSA") and ISDEAA were passed as Indian legislation.

In agreement with this common understanding of how the ISDEAA definition is used and understood, are the systems in Alaska for receiving and delivering services to the indigenous population. These systems work in our state because FRTs and ANCs act together to receive and deliver critical services. These systems are unique and are not found anywhere else in the Nation. It is our responsibility to legislate for our constituency and such legislation is in line with our federal trust responsibility to the indigenous people of this Nation, including Alaska.

As Members of Congress who represent the only indigenous population that has been singled out for this disparate treatment, we have a unique interest in participating in this briefing and will be useful for this Court in interpreting the laws we have consistently passed for nearly half a century.

II. Conclusion

The statutes at issue in this case have a direct impact on our constituency. We use the ISDEAA definition to reach and benefit all our indigenous constituents. To that end, including ANCs benefits the entirety of indigenous people in our state and keeps the systems running that deliver health care, housing, social services, and more.

To undermine programs during a global pandemic is a failure to understand how Native entities work together in Alaska and calls for review by this Court. We have a great interest in protecting our constituents and offer our unique perspective from our decades of services on U.S. House of Representatives and U.S. Senate Committees and Subcommittees on the very subject at hand, as more fully set forth in our *Amici Brief in Support of the Petitions for Writ of Certiorari*. Accordingly, and respectfully, we request this Court allow us to participate as *Amici*.

Respectfully submitted,

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**BRIEF OF *AMICI CURIAE* U.S. SENATORS
LISA MURKOWSKI AND DAN SULLIVAN, AND
U.S. CONGRESSMAN DON YOUNG¹ IN
SUPPORT OF PETITIONS FOR WRIT OF
CERTIORARI**

U.S. Senators Lisa Murkowski and Dan Sullivan, and U.S. Congressman Don Young respectfully submit this brief in support of the Petitions for Writ of Certiorari of the September 25, 2020, Opinion and Judgment issued by the DC Circuit Court.

***AMICI* MEMBERS OF CONGRESS URGE
THIS COURT TO GRANT THE PETITIONS
FOR CERTIORARI**

Amici are the two United States Senators and the one Member of the United States House of Representatives (collectively "*Amici*" or "*Amici* Members of Congress") elected from the State of Alaska ("State"). As Members of Congress, who serve the *only* state in the Nation that is home to both Federally Recognized Tribes ("FRT"), and Alaska Native Corporations ("ANC"), *Amici* Members of Congress have a unique interest and expertise in the application of federal law when it comes to legislating fairly on behalf of both FRTs and ANCs in order to

¹ All counsel of record received notice of intent to file this brief pursuant to Rule 37.2.

No counsel for any party authored this brief in whole or in part, and no such monetary contribution intended to fund the preparation or submission of this brief was made; this brief was prepared and submitted *pro bono*.

maximize the good we do on behalf of our constituency.

We also have the *only* constituency receiving disparate treatment under Title V of the CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020). This disparate treatment is in contravention of the federal trust relationship by and between the federal government and the Alaska Native and American Indian people of our state. (The terms Alaska Native people, Indians, and indigenous people are used interchangeably in this brief because Alaska Native people are Indians, as was explicitly reaffirmed by Congress in classifying ANCSA as Indian legislation.)

This expertise includes Congressman Young's service on the U.S. House of Representatives Subcommittee, which introduced the definition into ISDEAA, f/k/a "ISDA," that included Alaska Native 'regional or village corporation,' into the bill, which was passed into law. He still serves on that Subcommittee. Likewise, Senator Murkowski serves on the U.S. Senate Committees with oversight over ANCSA and ISDEAA, and Senator Sullivan uses the same definition in his oversight of tribal affairs on the U.S. Senate Committees he serves on in order to ensure disparate treatment does not occur among or to his constituency.

This experience is particularly unique and useful to this Court as the CARES Act, Title V, was enacted to provide for emergency-relief funds to 'Indian tribes' defined by ISDEAA, which includes Alaska Native 'regional or village corporations' and FRTs. 42 U.S.C. §§801(g)(1), (5). This definition is considered the "gold standard" for inclusivity, and was intentionally used by Congress to provide the

maximum benefit for all indigenous people, including those in Alaska.

Our unique perspective stems not only from our constituency, but from *Amici* Members of Congress's legislative experience in service to this Nation. Senator Murkowski serves on the U.S. Senate Committee on Indian Affairs, which passes and oversees laws specific to all Indian Affairs and has done so since 2003.

Senator Murkowski is Chair of the Committee on Energy and Natural Resources, and has been since 2015, which has jurisdiction over ANCSA. She has served on the Energy Committee since 2002 and was Ranking Member from 2009 through 2014. Senator Murkowski also Chairs the Interior Appropriations Subcommittee, which funds a large share of federal Indian programs that uphold the federal trust responsibility, including the Bureau of Indian Affairs ("BIA"), the Indian Health Service ("IHS"), and the many tribes and tribal organizations that contract or compact such programs via ISDEAA (Public Law 93-638)-*the very law and definition at issue here.*

Senator Murkowski is also a member of the Health, Education, Labor, and Pensions Committee, which has been combating COVID-19 and dealing with health care challenges across the country for all groups, including America's indigenous peoples.

Senator Sullivan serves on the U.S. Senate Committee on Commerce, Science, and Transportation, which oversees many issues ranging from telecommunication to fisheries, marine transportation highways to interstate commerce, space to consumer safety, transportation to technology, and Coast Guard to aviation. The

Commerce Committee is one of the two Senate committees that oversees the surface transportation bill that is reauthorized about every five years, including the Tribal Transportation Program. The Tribal Transportation Program includes ANCs as eligible 'Indian tribes.'

Senator Sullivan also sits on the U.S. Senate Committee on Environment and Public Works ("EPW"), the other Committee that has oversight on the surface transportation bill as well as the water resources development bill that is passed approximately every two years and provides eligibility and assistance to indigenous peoples. EPW also oversees the Environmental Protection Agency's Indian Environmental General Assistance Program, which includes ANCs as Indian tribal governments.

Prior to his tenure as U.S. Senator, he served as the Attorney General of the State of Alaska and was involved on a regular basis with litigation involving Indian law and Alaska Native law.

Finally, Congressman Young is the longest serving member of the House of Representatives ("House") and Dean of the House, having devoted 48 years/24 terms to serving the interests of the residents of the State of Alaska ("State") and this Nation. Congressman Young actively participated in the passage of ISDEAA and its amendments; amendments which include defining ANCs as 'Indian tribes' prior to the final bill becoming law. Congressman Young was also present in 1988 when ISDEAA was revisited and the definition to include Alaska Native 'regional or village corporation' was affirmed by Congress.

Congressman Young is currently the Chairman Emeritus of the House Natural Resources Committee and is also Chairman Emeritus on the Subcommittee for Indigenous Peoples of the United States f/k/a Indian, Insular, and Alaska Native Affairs. He continues to serve on the Subcommittee for Indigenous Peoples of the United States.

The DC Circuit's decision, if allowed to stand, will have a widespread and deleterious effect on numerous agencies' precedents and practice, and calls into question laws that have been relied upon, with good reason, by the indigenous people of Alaska and this Nation, for nearly half a century.

The DC Circuit's decision singles out the indigenous people of Alaska, the constituency we represent, and forces them to try to seek redress from the State rather than the federal government, which owes them a special duty under the trust relationship as Indians. Not only is that incorrect for legal and historic reasons, but it is also not the reality of how services are received or delivered in Alaska. In response to the DC Circuit's decision removing the trust relationship from Congress, the State has emphatically asserted that it is not the State's responsibility to deliver such services and they do not have the capacity to do so. *See Am. Br. of State of Alaska*. In doing so, the State has also affirmed that the understood practice of ISDEAA reinforced the federal government's trust responsibility to the indigenous people of our state, regardless of whether they were members of a FRT or ANC. We respectfully request the Court to review the DC Circuit's decision.

SUMMARY OF ARGUMENT

Congress chose the ISDEAA definition to provide benefits to all the indigenous people of Alaska, regardless of whether an indigenous person belongs to a FRT, an ANC, neither, or both. The legislation we wrote was not intended to leave our indigenous constituents out in the cold just because they did not belong to a FRT.

Importantly, in Alaska, the injury is happening now to Indian people. Additionally, due to the sweeping nature of the DC Circuit's decision, the full impact of the injury is unknown, but may prove fatal to more than one system of delivering services to the Indian population of Alaska. As of the writing of this brief, the *Amici* Members of Congress have been contacted by ANCs who are under the threat of the DC Circuit's decision being carried out immediately by agencies if not for intervention by this Court.

If this Court fails to act, inevitable litigation in the Ninth Circuit will occur, accompanied by dueling litigation in the DC Circuit over programs intended to benefit *all* Indians. While a global pandemic spreads to the remote villages of Alaska,² the system that delivers health care has been called into question and critical funding withheld.

This withholding of needed relief funds happens with the background of the 1918 pandemic, in which over 90 percent of the deaths in Alaska

²Anchorage Daily News, *Why is Chevak seeing a sudden burst of coronavirus cases?*, <https://bit.ly/38HlkWa> (last visited Nov. 4, 2020).

occurred in the villages; it hit later, and spread faster.³

Currently, COVID cases in the remote villages hit 20 percent and little safeguards within the communities.⁴ Over 30 villages lack basic sanitation infrastructure; there is no running water for all the residents, no flush toilets— the lack of which only enables the pandemic to spread.⁵ According to the U.S. Census Bureau's 2019 survey, 15.8% of Alaska's overall population is Alaska Native and American Indian alone.⁶ With the pandemic just reaching the villages, Alaska Native and American Indian people already account for 32.3% of total deaths in Alaska.⁷ This is occurring while needed relief funds are being withheld.

³ Alaska Dept. of Health and Human Services, *1918 Pandemic Influenza Mortality in Alaska* (Sept. 20, 2018), <https://bit.ly/3pmDy5f>.

⁴ Washington Post, *Covid has spared Alaska's most remote villages. Not Anymore*, <https://wapo.st/36xqdhR> (last visited Oct. 31, 2020).

⁵ Alaska Dept. of Env'tl. Conservation, <https://bit.ly/35FEqKh> (last visited Nov. 17, 2020); *see also* Alaska Public Media, *Without running water, Stebbins improvises sanitation amid COVID-19 outbreak*, <https://bit.ly/3eVbq46> (last visited Nov. 6, 2020).

⁶ U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates, <https://bit.ly/36HHUez> (last visited Nov. 16, 2020).

⁷ Append. A, Alaska Dept. of Health and Social Services Coronavirus Response, Table 3. Demographic Distribution of Cases, updated Nov. 12, 2020.

ARGUMENT

I. THE DC CIRCUIT'S DECISION
SUPERIMPOSED THE LOWER 48 MODEL
OF INDIAN TRIBE ON ALASKAA. To Understand ISDEAA in Alaska is
to Understand ANCSA

To understand ISDEAA in Alaska, the Court must understand ANCSA and how self-determination of the Alaska Native people occurs in practice. In the very title of ISDEAA is Indian Self-Determination. Importantly, both ANCSA and ISDEAA were enacted for maximum participation of Native peoples in decisions affecting their lives: the very purpose of self-determination. "[W]ith maximum participation by Natives in decisions affecting their rights . . . " ANCSA, 43 U.S.C. §1601(b).

The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the *Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.*

ISDEAA, 25 U.S.C. §5302(a)(emphasis added).

In 1971, ANCSA was signed into law which, *inter alia*, established ANCs in order to settle aboriginal land claims. In 1988, Congress amended ANCSA and reaffirmed the special trust relationship

between the federal government and American Indians, which includes Alaska Native people. "[T]he Alaska Native Claims Settlement Act and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs." 43 U.S.C. §1601(a)(9) note; *see also* U.S. Const. Art. I, §8, cl. 3.

ANCSA makes clear that the Alaska Native people are the heart and soul of the ANCs, and for whom the ANCs were formed to benefit. Alaska Native people are not to be considered "less than" other Indian people just because they fall into one designation rather than another. With its passage in 1975, ISDEAA also explicitly recognized and imported ANCs into concepts of self-determination by including them in the definition of 'Indian tribe.'

Self-determination is not sovereignty. FRTs are recognized by the Secretary of the Interior and placed on a list, published every year. 25 U.S.C. §479 (1994). The recognition process is quite rigorous and the FRTs, *inter alia*, are sovereign whereas ANCs are not. Neither ISDEAA nor ANCSA confers sovereignty but both ISDEAA and ANCSA speak to self-determination. FRTs are included in the ISDEAA definition alongside ANCs.

In 1987, the Ninth Circuit analyzed the statutory construct of ISDEAA in *Cook Inlet Native Ass'n v. Bowen*, 810 F.2d 1471 (9th Cir. 1987), and affirmed that the text was correct. That is, *Bowen* found that Congress expressly inserted Alaska Native 'regional or village corporation' into the ISDEAA definition and, accordingly, that text had and has meaning. In reaching this holding, the Ninth Circuit

reviewed both ANCSA and ISDEAA to find that ANCs are eligible as 'Indian tribes.'

The following year, both ISDEAA and ANCSA were revisited by Congress and confirmed that the court's holding in *Bowen* was correct. In 1988, following the *Bowen* decision, ANCSA was amended to explicitly reaffirm that the Alaska Native people were to remain eligible for federal programs. "***Notwithstanding any other provision of law, Alaska Natives shall remain eligible*** for all Federal Indian programs on the same basis as other Native Americans." 43 U.S.C. §1626(d)(emphasis added)."

Accordingly, the history of amending a statute must hold significant weight in judicial interpretation of our actions. *See, e.g., U.S. v. Brown*, 333 U.S. 18, 25 (1948)(concluding amendment of disputed provision 'was intended . . . to broaden the Act's coverage or to assure its broad coverage.'); *see also Pierce Cty. v. Guillen*, 537 U.S. 129, 145 (2003)(holding that when Congress acts to amend a statute, the court presumes Congress intended the amendment to have real and substantial effect and that giving that amendment less weight would render our actions an exercise in futility)(citing to *Stone v. INS*, 514 U.S. 386, 397 (1995)).

The Constitutional analysis contained in the House report accompanying the 1988 amendment is striking in that it explicitly embraces that Congress was exercising its power, in passing and amending ANCSA, pursuant to the Indian Commerce Clause, as enunciated in *Morton v. Mancari*, and did so by treating the Alaska Native peoples, through ANCs, as Indians. The federal trust and fiduciary relationship

continues and did NOT run or end with the land claims settled. See Report From the House of Representatives, Additional Views, Mr. Udall, Chair, to accompany H.R. 278, H.R. Rep. No. 100-31 (1987).

Indeed, decades later, a DC trial court decision, which was affirmed by the DC Circuit, took this same view when deciding that ANCs were 'Indian tribes' under ISDEAA and the modern mechanisms for self-determination.

Although "treaties . . . were originally the primary instrument for the expression of this relationship," in the modern era "federal laws like Section 8014 **are the means by which the United States carries out its trust responsibilities and the federal policy of self-determination and economic self-sufficiency.**" Amendment No. 3319, 146 Cong. Rec. S5019 (daily ed. June 13, 2000). The **ANCSA is one such modern mechanism** that designates Native Alaskan Corporations as the vehicle used to provide continuing economic benefits in exchange for extinguished aboriginal land rights.

Am. Fed'n of Gov't Emps. (AFL-CIO) v. United States, 195 F.Supp.2d 4, 21-22 (D.D.C. 2002)(footnote omitted)(emphasis added), *aff'd*, 330 F.3d 513 (D.C. Cir. 2003).

ANCSA was a unique drafting of Indian law specific to the Alaska Native people. ANCSA did not curtail fundamental rights of self-determination, as long confirmed by courts and Congress. Congressman Young joined in amending ISDEAA to reflect that, and

later Congresses have recognized and reaffirmed ANCs as 'Indian tribes' under ISDEAA.

B. Failure to Recognize that Alaska is Unique Results in the DC Circuit's 'Topsy Turvy' Decision

Alaska is different and federal legislation passed for the benefit of the people reflects that difference. Congress for nearly half a century has continued legislating including ANCs as 'Indian tribes' for purposes of the ISDEAA definition. Further, the administration of ISDEAA by agencies confirms the law has been interpreted as Congress intended – to include ANCs as 'Indian tribes.'

In contrast, the DC Circuit's decision found that the systems of receiving and delivering Indian services in Alaska should be set-aside because it did not conform to the Lower 48 model of a traditional sovereign tribe with reservation land; this is a fundamental misunderstanding of Alaska which has grave consequences.

In failing to consider the realities of Alaska, which includes the actual usage of ISDEAA for over 40 years to include ANCs, the DC Circuit decision seemed to put aside the plain communicative content of the definition in 1975 until present day. "A text should not be construed strictly, and it should not be construed leniently; it should be construed reasonably, to contain *all* that it fairly means." Antonin Scalia, A Matter of Interpretation: Federal Courts and the Law at 17 (Amy Gutmann ed. 1997)(emphasis added).

The DC Circuit's decision divorced the text from the reality of Alaska by identifying what applies to

Lower 48 FRTs and superimposing that belief system on Alaska. One size simply does not fit all as this Court reiterated last year.

"Alaska is often the exception, not the rule." *Sturgeon v. Frost*, 136 S. Ct. 1061, 1071 (2016)(*Sturgeon I*)(finding that failure to recognize Alaska's unique conditions was a fatal flaw when examining the application of federal law specific to Alaska). In reaching its conclusion, this Court also examined ANCSA to understand the intent of Alaska National Interest Land Conservation Act ("ANILCA"). *Id.* at 1065. Failing to undertake those steps in recognizing the uniqueness of the federal law application in Alaska would produce a "'topsy-turvy' result." *Sturgeon v. Frost*, 139 S. Ct. 1066, 1078 (2019)(*Sturgeon II*)(quoting *Sturgeon I*). This 'topsy-turvy' result is exactly what the DC Circuit's decision delivers.

This Court was correct when it said approximately one year ago that the landscape made Alaska different in application of ANILCA. "Over three-quarters of Alaska's 300 communities live in regions unconnected to the State's road system. Residents of those areas include many of Alaska's poorest citizens, who rely on rivers for access to necessities like food and fuel." *Sturgeon II* at 1087 (quoting *Sturgeon I*)(internal citation omitted). "The State's extreme climate and rugged terrain make them dependent on rivers to reach a market, a hospital, or a home." *Sturgeon II* at 1087.

This is absolutely correct. ANCs as well as FRTs, as set forth below in Section II, administer federal programs that deliver health care, housing assistance, and social services in the vast remoteness

of Alaska; services normally delivered by the government. The administration of these programs and services do not just impact rural Alaska but also impacts the single greatest population of Alaska Native people and American Indians; those that reside in Anchorage and its surrounding area. In that area no FRT resides that provides comprehensive health care, housing, or social services. Both the rural systems and the area with the greatest concentration and population of Alaska's indigenous people rely on ANCs to work with FRTs to deliver and administer programs and systems for the benefit of the indigenous people. The text and usage of ISDEAA in the real life of our constituents reinforces the unique systems employed only in Alaska.

Maps demonstrate the lack of a road system, the remoteness of the villages, and the necessity of the Native entities working together to receive and deliver critical services. The red lines mark the road system.

The smaller inlaid box represents *the only* Alaska Native community, Metlakatla, that opted for a reservation system. Notably, Metlakatla is under the jurisdiction of the Northwest BIA division, not the Alaska division, because it operates more like a Lower 48 FRT. The exception to the exception—*only* in Alaska.



Fig. 1, Map, Native Entities in Alaska and Major Road System.

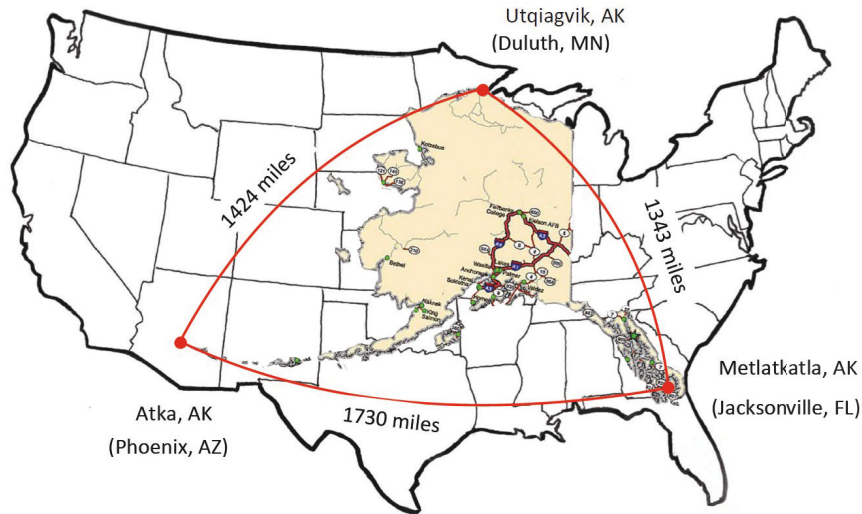


Fig. 2, Map, Distance Comparison of Alaska and 48 Contiguous States.

C. The ISDEAA Tribe Definition and the Federally Recognized Tribe Definition Differ Substantially and the Difference Matters

In Alaska, some Alaska Native peoples are shareholders of ANCs, some are members of FRTs, some are both, and some are neither. Regardless of membership, ANCs and FRTs work together in an effort to ensure maximum participation by the Alaska Native peoples in decisions affecting their lives—self-determination. To further that goal, Congress uses different definitions.

For instance, in addition to ISDEAA, which includes ANCs, there are also statutes that solely refer to sovereign FRTs, without any language inserting ANCs, and statutes that refer to both types of tribes using the different definitions in the very same statute. A chart demonstrating just some of the statutes that use the different definitions, such as the ISDEAA definition, including statutes enacted or amended since 1988, as well as statutes using the FRT definition, and statutes using both definitions is attached.⁸ The differences in the definitions, in its simplest form, are represented below.

⁸ Append. B, List of Statutes Using Differing Definitions of 'Indian Tribe.'

Indian Tribes pursuant to ISDEAA	Federally Recognized Tribes Defined
<p>"Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." 25 U.S.C. § 5304(e).</p>	<p>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)</p>

Amici Members of Congress are intimately familiar with the FRT definition. Along with our colleagues, we could easily have chosen that definition to include only FRTs in the CARES Act, if that was our intent. We did not. We chose the broader term and we know the difference between the two. *See, e.g., Wis. Cent. Ltd. v. U.S.*, 138 S. Ct. 2067, 2071-72 (2018)(Congress is presumed to know the differences in statutory language it uses).

"Congress alone has the institutional competence, democratic legitimacy, and (most

importantly) constitutional authority to revise statutes in light of new social problems and preferences. Until it exercises that power, the people may rely on the original meaning of the written law." *Id.* at 2074. In this case, the people, the lawmakers, and the agencies have relied on the written law for 45 years consistently and correctly.

In agreement with congressional practice and the 1988 confirmation of ANCSA and ISDEAA, the BIA confirmed that the non-inclusion of ANCs on the Secretary of Interior's yearly published list emphatically did not reflect a determination of, or impact in any way, ANCs' statutory eligibility for programs and services available only to Indians:

Because the list published by this notice is limited to entities found to be Indian Tribes, as that term is defined and used in 25 CFR part 83, it does not include a number of non-tribal Native entities in Alaska that currently contract with or receive services from the Bureau of Indian Affairs pursuant to specific statutory authority, including ANCSA village and regional corporations and various tribal organizations. These entities are made eligible for Federal contracting and services by statute and their non-inclusion on the list below does not affect the continued eligibility of the entities for contracts and services.

58 Fed. Reg. 54,364, 54,366 (Oct. 21, 1993).

By the time the BIA reaffirmed that ANCs were ISDEAA 'Indian tribes' in 1993, *Bowen* had been decided by the Ninth Circuit, ANCSA had made

crystal clear its affirmation of the status of Alaska Native people, and ISDEAA had been revisited and reenacted, which also reaffirmed the definition, as further set forth below. There is no legitimate reason we or our colleagues would doubt the ISDEAA definition includes ANCs, given the aforementioned historical practice by and reliance of all three branches of government.

D. The Amendment to ISDEAA Prior to Passage and Later Affirmation of Congress of the Definition Including ANCs Should be Afforded Great Weight

1. Prior to Passing ISDEAA Congress Explicitly Added ANCs to the Definition

Using the ISDEAA definition in Title V of the CARES Act is not an unusual approach or a new understanding of how ANCs and ISDEAA works in Alaska. In 1974, Congressman Young was on the Subcommittee that added the provision to include ANCs within the ISDEAA definition and did so with deliberation. This definition has become the "gold standard" when Congress legislates to include ANCs.

During the inception of ISDEAA in 1974, prior to enactment in 1975, an amendment was offered and accepted to the bill that became law. That amendment's sole purpose was to include ANCs as 'Indian tribes' eligible for programs and services, as well as administer those services, offered to Indians because of their status as Indians.

The bill was amended after hearings⁹ 'to include regional and village corporations established by the Alaska Native Claims Settlement Act'¹⁰ without requiring any formal tribal recognition by the Secretary of the Interior or be formed as part of the Indian Reorganization Act. ISDEAA was enacted two weeks later and has been used as intended for nearly a half a century by Congress. Additionally, federal agencies have continually implemented the law to include ANCs and courts, prior to the DC Circuit decision, affirmed this interpretation.

2. The Affirmation of ANCs in the Definition When the Statute Was Revisited

In 1988, after the Ninth Circuit's *Bowen* decision in 1987, and after over a decade of the agency administering the statute as Congress intended, Congress revisited ISDEAA. The inclusive definition of 'Indian tribe' did not change, nor did agency practice when it reenacted the definition. "When the statute giving rise to the longstanding interpretation has been reenacted without pertinent change, the 'congressional failure to revise or repeal the agency's interpretation is persuasive evidence that the interpretation is the one intended by Congress.'" *FDIC v. Philadelphia Gear Corp.*, 476 U.S. 426, 437 (1986)(citing to *NLRB v. Bell Aerospace*, 416 U.S. 267,

⁹ Indian Self-Determination and Education Assistance Act: Hearings on S. 1017 and Related Bills, before the Subcomm. on Indian Affairs, Comm. on Interior and Insular Affairs, House, 93rd Cong. (1974).

¹⁰ H.R. Rep. No. 93-1600, at 1-2 (1974).

275 (1974); *Zenith Radio Corp. v. United States*, 437 U.S. 443, 457 (1978)).

The inclusion of explicit language recognizing ANCs as 'Indian tribes' in ISDEAA meant and means something, as it did in 1974 and as was reinforced in 1988 by Congress in both ISDEAA and ANCSA. Just as the goal of ANCSA was and is to maximize Indian participation in decisions affecting their lives, so too was the goal of ISDEAA, as reflected in the text.

In agreement is this Court's holdings on statutory interpretation on acts of Congress when there is no conflict between the statutes. *See Branch v. Smith*, 538 U.S. 254, 273 (2003)("[i]mplied repeal will only be found where provisions in two statutes are in 'irreconcilable conflict,' or where the latter act covers the whole subject of the earlier one and 'is clearly intended as a substitute.'")(quoting *Posadas v. Nat'l City Bank*, 296 U.S. 497, 503, (1936)); *United States v. United Cont'l Tuna Corp.*, 425 U.S. 164, 168 (1976)("[i]t is, of course, a cardinal principle of statutory construction that repeals by implication are not favored."). Accordingly, "[t]he legislative history [of the Federally Recognized Indian Tribe List Act] indicates no Congressional intent to take away the federal benefits offered to other Indian Tribes that are not federally recognized or to modify the contractual provisions associated with the federal benefits they receive." *Schmasow v. Native Am. Ctr.*, 978 P.2d 304, 308 (Mont. 1999).

We used the ISDEAA definition because it is how Congress ensures the inclusion of ANCs and how others understand that definition. This usage assigns to this statute its ordinary meaning as understood and applied in Alaska and this Nation. A statute is

written and is designed to be read to give every word meaning and carry out our Congressional intent. Prior to the DC Circuit setting aside the language of statutes and agency practice administering those statutes, as well as established jurisprudence, we respectfully request this Court to review the circuit split it created.

II. DURING A GLOBAL PANDEMIC THE DC CIRCUIT'S DECISION THREATENS THE SYSTEMS AND SERVICES FOR ALASKA NATIVE PEOPLES

The DC Circuit's decision must be reviewed as it puts in serious jeopardy the access by Indian peoples to crucial social programs and services, foremost of which is the tribal health care services.

We rightfully relied on usage of the ISDEAA definition when passing the CARES Act on behalf of this Nation and our state's indigenous people. This is particularly apparent when we examine the tribal systems in Alaska, which confirms that the ISDEAA definition was used correctly by Congress when passing the CARES Act to provide assistance to all our state's indigenous people. Not only does the DC Circuit's decision threaten hundreds of millions of federal dollars for the indigenous peoples of our state during a pandemic, but the sweeping decision also threatens many systems and services rightfully reliant on a law and practices in place for nearly half a century.

The systems that are working demonstrate that some Alaska indigenous people receive services from their own FRTs when they reside within the FRT's boundaries. Many indigenous Alaskans are not

enrolled in *any* tribe and depend on the designations of ANCs to health care tribal organizations. Even some FRT members may have only limited access to health care through their own tribes because they may not live within the FRT's geographic boundaries, near tribal areas or the FRT may not provide the services required.

To fill these gaps, regional ANCs have used their status as 'Indian tribes' under ISDEAA and other federal statutes to authorize and designate nonprofit tribal organizations and/or regional tribal health organizations to deliver services to the indigenous peoples of Alaska. This designation of tribal authority includes health care, housing, and other social services that are governmental in nature.

One notable example is Southcentral Foundation ("SCF"), which, for the past 38 years, has been the regional tribal health organization designated and authorized by Cook Inlet Region, Inc. (an ANC), to administer and provide IHS programs and activities pursuant to ISDEAA. SCF delivers health care services to 55,000 indigenous people residing in areas of the Municipality of Anchorage and the Matanuska-Susitna Borough.¹¹

Other ANCs have similarly used their authority as 'Indian tribes' under ISDEAA and other federal statutes to authorize and designate tribal organizations to provide programs and services to indigenous people. In terms of health care services, these ANC designees are regional Tribal Health Organizations ("THO"), which pool resources under

¹¹ See SCF, <https://bit.ly/2Ix3b2j> (last visited Nov. 17, 2020); see also SCF Organization Profile (2020), <https://bit.ly/3lxPUVH>.

the tribal authority of *both* ANCs and FRTs in order to cover a larger geographic area and serve a larger population. Together, all THOs operate "58 tribal health centers, 160 tribal community health aide clinics and five residential substance abuse treatment centers."¹²

Although a THO may deliver services under the tribal authority of an FRT, the authority conferred by the FRT on the THO does not extend beyond its geographic tribal boundaries, and may be relatively small. For example, there are seven tribes, five of which are FRTs within the region of Chugach Alaska Corporation ("Chugach"), an ANC. These FRTs, together with a Chugach designee, have authorized and designated Chugachmiut, a nonprofit tribal organization, to provide health care and social services, education and training, and technical assistance to 2,200 Alaska Native peoples within the region.¹³ Chugachmiut provides much needed services to Alaska Native people in the towns of Valdez and Seward (both communities without FRTs). Without that ISDEAA tribal authority, Alaska Native people living in these large towns would have no access to the critical services provided by Chugachmiut.

ANCs and their designees implement many other federal Indian programs as the recipients of federal funds supporting critical services to Alaska Native communities. To list just two examples, tribal organizations affiliated with regional ANCs act as

¹² IHS, <https://www.ihs.gov/alaska/> (last visited Oct. 31, 2020).

¹³ See Chugachmiut, <https://bit.ly/3kpgAq9> (last visited Nov. 11, 2020).

tribal grant recipients providing child welfare services under the Social Security Act Titles IVB and IVE, 42 U.S.C. §§428, 479B; and administering housing-assistance block grant funds for low-income Alaska Native peoples under the Native American Housing Assistance and Self Determination Act of 1996 ("NAHASDA"), 25 U.S.C. §§4101 *et seq.*, which has always recognized the eligibility of ANCs under statutory language that is substantially the same as ISDEAA's 'Indian tribe' definition. By not understanding how the systems work in Alaska, the DC Circuit's decision unnecessarily puts these programs in jeopardy and it must be reviewed.

III. CONCLUSION

We have had no reason to believe that the use of the ISDEAA definition within the CARES Act Title V would mean anything other than the inclusion of ANCs as eligible recipients of tribal relief. For decades, the legislative, judicial, and executive branches have uniformly relied upon that reading of the statute. If Congress had meant to limit the tribal relief only to Alaska Native peoples enrolled in FRTs, we would have used that definition. We did not; we used the ISDEAA definition, and we know the difference. For the foregoing reasons, we respectfully request this Court grant Certiorari to the Petitioners.

Respectfully submitted,

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APPENDIX

Table of Appendices

Appendix A

Alaska Dept. of Health and Social Services
Coronavirus Response, Table 3. Demographic
Distribution of Cases, updated Nov. 12, 2020

Appendix B

List of Statutes Using Differing Definitions of
'Indian Tribe'

Append. A-1

Table 3. Demographic Distribution of Cases¹

Demographic	All Cases	All Cases (Percent)	Deceased Cases	Deceased Cases (Percent)
Sex				
Male	10,340	50.0%	58	60.4%
Female	10,338	50.0%	38	39.6%
Unknown Sex	10	0.0%	0	0.0%
Age Group				
<10 Years	1,156	5.6%	0	0.0%
10-19 Years	2,459	11.9%	0	0.0%
20-29 Years	4,463	21.6%	2	2.1%
30-39 Years	3,933	19.0%	2	2.1%
40-49 Years	2,929	14.2%	6	6.3%
50-59 Years	2,642	12.8%	7	7.3%
60-69 Years	1,912	9.2%	17	17.7%
70-79 Years	838	4.1%	28	29.2%
80+ Years	356	1.7%	34	35.4%
Unknown Age	0	0.0%	0	0.0%
Ethnicity				
Hispanic	1,060	5.1%	1	1.0%
Non-Hispanic	8,831	42.7%	80	83.3%
UI Ethnicity	10,178	49.2%	12	12.5%
Unknown Ethnicity	619	3.0%	3	3.1%
Race				
White	5,612	27.1%	32	33.3%
Black	604	2.9%	4	4.2%
AI/AN	4,719	22.8%	31	32.3%
Asian	747	3.6%	8	8.3%
NHOPI	683	3.3%	9	9.4%
Multiple	1,185	5.7%	4	4.2%
Other	1,204	5.8%	1	1.0%
UI Race	5,581	27.0%	7	7.3%
Unknown Race	353	1.7%	0	0.0%
Grand Total	20,688	100.0%	96	100.0%

Footnotes:
1. Alaska resident cases only.

Source:
Alaska Department of Health and Social Services.
Last updated on 11/12/2020.

(Table columns D-M, P, and R are hidden.)

Append. B-1

List of Statutes Using Differing Definitions of 'Indian Tribe'

Indian tribes pursuant to ISDEAA	List Act Tribes Defined
“Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. § 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.” 25 U.S.C. § 5304(e).	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)

A. Statutes that Contain the ISDEAA Definition of 'Indian Tribe' Either Identically or are Substantially the Same.

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
1	Native American Housing	Oct. 26, 1996	Housing

Append. B-2

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
	Assistance and Self-Determination Act of 1996, 25 U.S.C. § 4103(13)		
2	Public and Assisted Housing Drug Elimination Act of 1988, 42 U.S.C. § 11905(6)	Nov. 18, 1988; amended Oct. 21, 1998 to include definition of Indian tribe	Housing
3	Housing and Community Development Act of 1992, 12 U.S.C. § 1715z-13a(l)(8)	Oct. 28, 1992; amended Oct. 26, 1996 to include definition of Indian tribe	Housing and Community Development
4	Indian Environmental General Assistance Program Act of 1992, 42 U.S.C. § 4368b(c)(1)	Oct. 24, 1992	Tribal Environmental Regulatory Programs
5	Revenue Reconciliation Act of 1993, 26 U.S.C. § 45A(c)(6)	Aug. 10, 1993	Indian Employment Credits

Append. B-3

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
6	Aquatic Nuisance Prevention and Control Act, 16 U.S.C. § 4702(9)	Nov. 29, 1990	Coastal Inland Waters Infestations
7	National Forest Act, 16 U.S.C. § 539p(b)(3)	Dec. 19, 2014	Land Exchange
8	American Indian Trust Management Reform Act, 25 U.S.C. § 4001(2)	Oct. 25, 1994	Indian Trust Funds
9	American Indian Agricultural Resource Management Act of 1993, 25 U.S.C. § 3703(10)	Dec. 3, 1993	Indian Agricultural Lands and Resources
10	Public Works and Economic Development Act of 1965, 42 U.S.C. § 3122(7)	Aug. 26, 1965; amended Nov. 13, 1998 to include definition of Indian tribe	Unemployment and under-employment
11	Elementary and Secondary Education Act,	Apr. 11, 1965; amended Jan. 8, 2002 to include	Education

Append. B-4

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
	20 U.S.C. § 7011(6)	definition of Indian tribe	
12	Museum and Library Services Act, 20 U.S.C. § 9101(5)	Sept. 30, 1996; amended Sept. 25, 2003 to include definition of Indian tribe	Museum services
13	Higher Education Tribal Grant Authorization Act, 25 U.S.C. § 3307(f)(2)	Jul. 23, 1992	Financial Assistance at Institutions of Higher Education
14	Tribally Controlled Colleges and Universities Assistance Act of 1978, 25 U.S.C. § 1801(a)(2)	Oct. 17, 1978	Colleges and Universities

Append. B-5

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
15	National Housing Act of 1949, 42 U.S.C. § 1490p-2(r)(4)	Jul. 15, 1949; amended December 27, 2000, to include definition of Indian tribe	National Housing Policy
16	Plant Protection Act, 7 U.S.C. § 7781(1)	Jun. 20, 2000; amended Oct. 30, 2004 to include definition of Indian tribe	Plant Protection and Quarantine
17	Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. § 8011(k)(9)	Nov. 28, 1990	Congregate Housing Programs
18	National Historic Preservation Act, 54 U.S.C. § 300309	Dec. 19, 2014	Historic Property Preservation
19	Federal Unemployment Tax Act, 26 U.S.C. § 3306(u)	Aug. 16, 1954; amended Dec. 15, 2000 to include definition of Indian tribe	Employer Excise Tax

Append. B-6

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
20	Major Crimes Act, 18 U.S.C. § 1159(c)(3)	Jun. 25, 1948; amended Nov. 29, 1990 to include definition of Indian tribe	Indian Country Jurisdiction
21	Indian Alcohol and Substance Abuse Prevention and Treatment Act, 25 U.S.C. § 2403(3)	Oct. 27, 1986	Narcotics Trafficking in Indian Country
22	Indian Dams Safety Act, 25 U.S.C. § 3802(4)	Aug. 23, 1994	Dams Safety
23	National Defense Authorization Act For Fiscal Year 1993, 10 U.S.C. § 2323a(e)(3)	Oct. 23, 1992 (renumbered)	Defense Bill
24	Legislation Establishing the National Museum of the American Indian, 20 U.S.C. § 80q-14(8)	Nov. 28, 1989	National Museum of the American Indian

Append. B-7

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
25	Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. § 4702(12)	Sept. 23, 1994	Community Development Financial Institutions Fund
26	Biomass Energy and Alcohol Fuels Act of 1980, 42 U.S.C. § 8802(12)	Jun. 30, 1980	Biomass Energy
27	Early Learning Opportunities Act, 20 U.S.C. § 9402(5)	Dec. 21, 2000	Early Childhood Development
28	Native American Education Improvement Act of 2001, 25 U.S.C. § 2511(4)	Jan. 8, 2002	Education
29	Unfunded Mandates Reform Act of 1995, 2 U.S.C. § 658(13)	Mar. 22, 1995	Amendments to Congressional Budget Act of 1974
30	Indian Arts and Crafts	Nov. 29, 1990	Indian Art

Append. B-8

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
	Amendments Act, 25 U.S.C. § 305e(a)(3)(A)		
31	Native American Education Improvement Act of 2001, 25 U.S.C. § 2021(20)	Jan. 8, 2002	Education
32	Native American Business Development, Trade Promotion and Tourism Act, 25 U.S.C. § 4302(6)	Nov. 7, 2000	Business Development
33	Agricultural Act of 2014, 25 U.S.C. § 1685(b)(4)	Feb. 7, 2014	Agricultural Programs
34	Water Resources Development Act of 2000, 33 U.S.C. § 2269(a)	Dec. 11, 2000	Improvements to Rivers and Harbors
35	Water Resources Development Act of 2000, 33 U.S.C. § 2338(a)	Dec. 11, 2000	Improvements to Rivers and Harbors

Append. B-9

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
36	No Child Left Behind Act of 2001, 20 U.S.C. § 7546(2)(A)	Jan. 8, 2002	Education
37	Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. § 3202(10)	Nov. 28, 1990	Violence Prevention
38	Indian Health Care Benefits, 26 U.S.C. § 139D(c)(1)	Mar. 23, 2010	Indian Health Care
39	Public Health Service Act, 42 U.S.C. § 247b-14(e)	Jul. 1, 1944; amended Oct. 17, 2000 to include definition of Indian tribe and Tribal Organization	Community Water Fluoridation
40	Indian Health Care Improvement Act, 25 U.S.C. § 1603(14)	Sept. 30, 1976	Health Care and Education

Append. B-10

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
41	Native American Languages Act, 25 U.S.C. § 2902(5)	Oct. 30, 1990	Native American Languages
42	Workforce Innovation and Opportunity Act, 29 U.S.C. § 3221(b)(2)	Jul. 22, 2014	Employment and Training
43	Family Violence Prevention and Services Act, 42 U.S.C. § 10402(5)	Dec. 20, 2010	Violence Prevention
44	Older Americans Act of 1965, 42 U.S.C. § 3002(27)	Jul. 14, 1965	Social Services
45	Violence Against Women Act, 34 U.S.C. § 12291(a)(16)	Jan. 5, 2006	Violence Prevention

Append. B-11

B. Statutes that Contain the Federally Recognized Indian Tribe List Act Definition of 'Indian Tribe' Either Identically or are Substantively the Same, Including Statutes that Do Not Include Alaska Native Corporations as 'Indian Tribes.'

No.	Name of Statute	Date of Enactment and/or Date Amended to Include Definition	Subject
1	Native American Graves Protection and Repatriation Act, 1990, 25 U.S.C. § 3001(7)	Nov. 16, 1990	Protection of Native American Graves
2	Civil Rights Act of 1968, 25 U.S.C. § 1301(1)	Apr. 11, 1968	Prescribe Penalties for Certain Acts of Violence or Intimidation
3	Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(36)	Dec. 11, 1980; amended Oct. 17, 1986 to include definition of Indian tribe	Environmental Liability

Append. B-12

No.	Name of Statute	Date of Enactment and/or Date Amended to Include Definition	Subject
4	Indian Mineral Development Act of 1982, 25 U.S.C. § 2101(2)	Dec. 22, 1982	Disposition of Tribal Mineral Resources
5	Indian Land Consolidation Act, 25 U.S.C. § 2201(1)	Jan. 12, 1983	Exchange of Lands by Indian Tribes
6	Indian Gaming Regulatory Act, 25 U.S.C. § 2703(5)	Oct. 17, 1988	Regulate Gaming on Indian Lands
7	Indian Law Enforcement Reform Act, 25 U.S.C. § 2801(6)	Aug. 18, 1990	Law Enforcement
8	Violent Crime Control and Law Enforcement Act of 1994, 34 U.S.C. § 12133, 34 U.S.C. § 12161(b), 34 U.S.C. § 12227, 34 U.S.C. § 12271(d), 34 U.S.C. § 10389(3)	Sept. 13, 1994	Crime Prevention

Append. B-13

No.	Name of Statute	Date of Enactment and/or Date Amended to Include Definition	Subject
9	American Indian Religious Freedom Act Amendments of 1994, 42 U.S.C. § 1996a(c)(2)	Oct. 6, 1994	Religious Freedom
10	ADAMHA Reorganization Act, 42 U.S.C. § 290bb-25(n)(3)	Jul. 10, 1992	Alcohol, Drug Abuse, and Mental Health Administration
11	Disaster Relief Act of 1974, 42 U.S.C. § 5122(6)	May 22, 1974; amended Jan. 29, 2013 to include definition of Indian tribe	Supplemental Appropriations
12	Solid Waste Disposal Act, 42 U.S.C. § 6991(1)	Oct. 20, 1965; amended Aug. 8, 2005 to include definition of Indian tribe	Ensure Jobs and Reliable Energy
13	Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 5130(2)	Nov. 2, 1994	Recognition of Sovereign Indian Tribes

Append. B-14

No.	Name of Statute	Date of Enactment and/or Date Amended to Include Definition	Subject
14	Higher Education Amendments of 1986, 20 U.S.C. § 4402(5)	Oct. 17, 1986	Education
15	Indian Child Welfare Act of 1978, 25 U.S.C. § 1903(8)	Nov. 8, 1978	Welfare of Indian Children and Families
16	National Housing Act of 1949, 42 U.S.C. § 1471(b)(6)	Jul. 15, 1949; amended Oct. 8, 1980 to include definition of Indian tribe	Housing

Append. B-15

C. Statutes that Contain the ISDEAA Definition of Indian Tribe and Federally Recognized Indian Tribe List Act Definition of Indian Tribe Either Identically or Are Substantially the Same.

No.	Name of Statute	Date of Enactment; and/or Date Amended to Include Definition	Subject
1	Prevent All Cigarette Trafficking Act of 2009, 15 U.S.C. § 375(8)	Mar. 31, 2010	Tobacco Regulation
2	Agricultural Credit Act of 1961, 7 U.S.C. § 1926 (a)(19)(A), (20)(B), 21(A)	Aug. 8, 1961; amended Dec. 20, 2018, to include ISDEAA definition of Indian tribe	Loans to Farmers and Ranchers