

NCEL & NAP

Restoring Relationships

State/Tribal
Environmental
Policy Toolkit



NCEL

National Caucus of
Environmental Legislators



**NATIVE AMERICANS
IN PHILANTHROPY**

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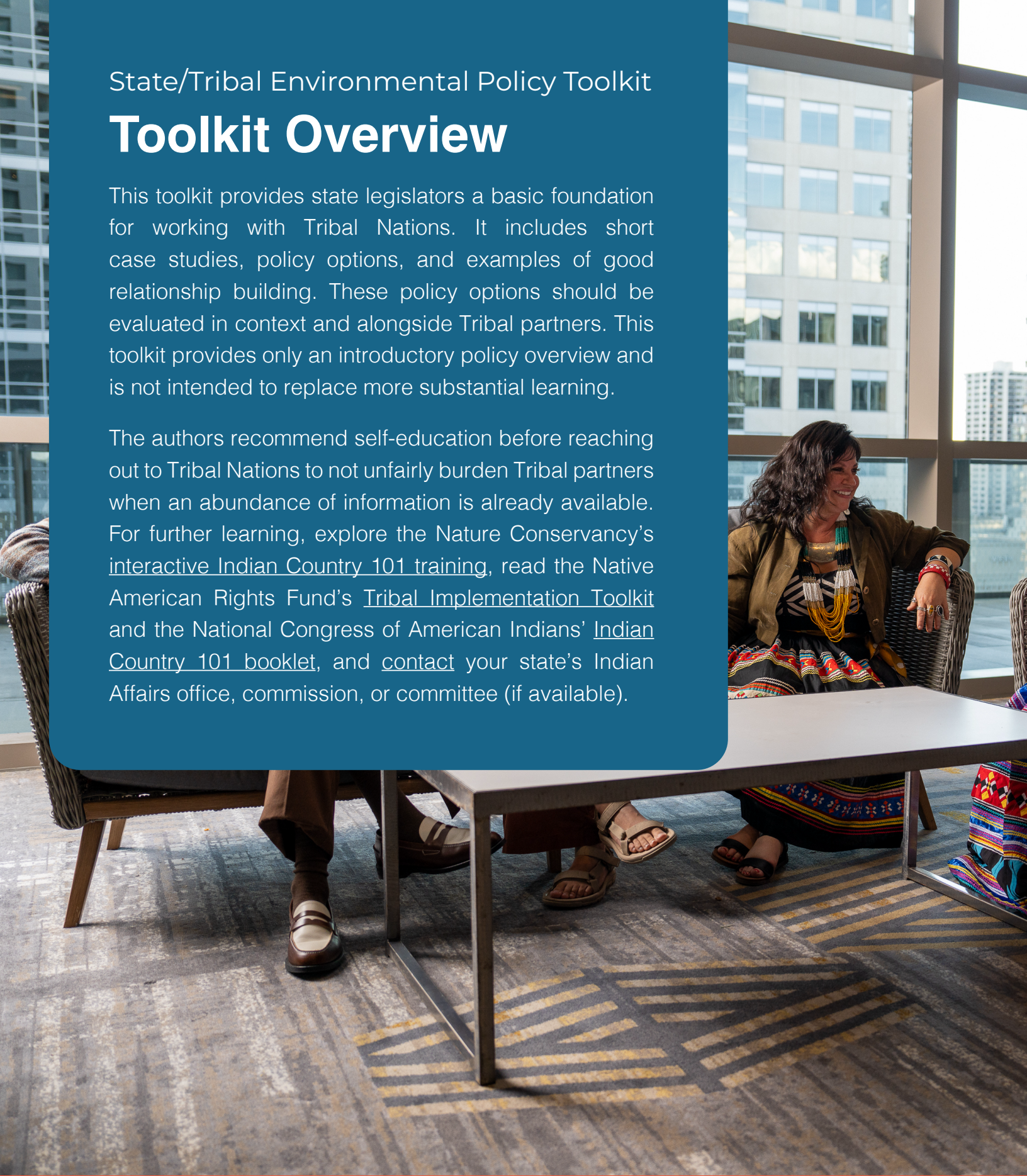
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Toolkit Overview

This toolkit provides state legislators a basic foundation for working with Tribal Nations. It includes short case studies, policy options, and examples of good relationship building. These policy options should be evaluated in context and alongside Tribal partners. This toolkit provides only an introductory policy overview and is not intended to replace more substantial learning.

The authors recommend self-education before reaching out to Tribal Nations to not unfairly burden Tribal partners when an abundance of information is already available. For further learning, explore the Nature Conservancy's [interactive Indian Country 101 training](#), read the Native American Rights Fund's [Tribal Implementation Toolkit](#) and the National Congress of American Indians' [Indian Country 101 booklet](#), and [contact](#) your state's Indian Affairs office, commission, or committee (if available).





Strong State/Tribal Relationships Benefit All

→ Tribal citizens are citizens of the United States

Tribal citizens are [citizens of three sovereigns](#): their Tribe, the United States, and the states in which they reside. Tribal citizens have been U.S. and state citizens for over 100 years under the Indian Citizenship Act. When Tribes benefit, others do too.

→ Strong Tribes make strong states

State legislators are responsible for ensuring the well-being of all state citizens, Tribal and non-Tribal alike.

→ Tribal and state governments have a lot in common

Tribal governments and state governments have many similar responsibilities to their citizens, the federal government, and local governments within their boundaries. Collaboration and knowledge-sharing benefits everyone.

→ States and Tribes share jurisdictions

States and Tribes border one another very closely and may have overlapping boundaries, with some Tribes bordered by or co-located within more than one state. The proximity of these borders means there is often overlap in state and Tribal decision-making and the services they offer residents.

→ There is a lack of knowledge at the state legislator level regarding how to work with Tribes

According to the National Congress of American Indians (NCAI), "Many individual legislators and other state government officials often do not have enough familiarity with Tribal issues to sufficiently understand the sovereign government status of Indian Tribes."

Introduction to State/Tribal Relations



States and Tribes in the U.S.

There are currently [574 federally-recognized Tribes](#), [66 state recognized Tribes](#), and numerous [Alaska Native Corporations \(ANCs\)](#). Tribal [“recognition”](#) determines the political relationship a Tribe shares with either the federal or state government, and serves as a formal acknowledgement of that relationship. Fifteen states do not have federally-recognized Tribes located within state borders (Arkansas, Delaware, Georgia, Hawaii, Illinois, Kentucky, Maryland, Missouri, New Hampshire, New Jersey, Ohio, Pennsylvania, Tennessee*, Vermont, and West Virginia.) These states still have the opportunity and responsibility to engage with Tribal Nations that were removed from state lands; removed and displaced Tribes remain Indigenous to the lands they were removed from.

The reservation boundaries for the Mississippi Band of Choctaw Indians extend into Tennessee, and the nation owns 79 acres of federal trust land co-located with Tennessee.

More Than Stakeholders

Tribes are more than stakeholders; they are sovereign Nations with a history of Treaty-making with the U.S. government. Similar to how no state has authority over another, states have no authority over Tribal Nations unless provided by the U.S. Congress. Federally-recognized Tribes are sovereigns with jurisdiction and rights to operate independently from states, including the right to establish stricter or more lenient laws than the states they border. Tribal-federal relationships supersede state-federal relationships due to [federal trust obligations](#). Tribes adopt their own laws and generally follow federal law, though not all federal laws apply to Tribes. Some Tribes reserve the right to decide who may enter reservation land, including [state legislators](#).

By collaborating with Tribal Nations and meeting their treaty obligations (which the U.S. Constitution identifies as the [supreme law of the land](#)), federal and state governments can increase resources through shared management, prevent expensive legal conflict, improve the effectiveness and implementation of environmental programs, and make both states and Tribal Nations more eligible and competitive for federal funding.

Outside the Continental U.S.

Alaska Native, **Native Hawaiian**, and **Indigenous Peoples** of the territories are also sovereign Tribal Peoples but are recognized differently under U.S. law.

- **Alaska Native Tribes** are organized into Alaska Native Villages and Alaska Native Corporations. Alaska Native Villages are federally-recognized Tribes. Alaska Native Corporations (ANCs) are Tribes but not federally-recognized sovereigns. While ANCs are eligible for treatment as Indian Tribes under the [Indian Self-Determination and Education Assistance Act \(ISDEAA\)](#), ANCs cannot freely perform certain government functions, like making laws, establishing courts, or levying taxes. Alaska Native Villages can make laws, establish courts, and levy taxes.
- **Native Hawaiian people**, Kānaka Maoli, are one of very few major state-based Indigenous groups with no “nation-to-nation” status with the federal government, despite the 1993 [Joint Resolution](#) recognizing that Indigenous Hawaiians “never directly relinquished their claims to their inherent sovereignty.” Under a 1974 amendment to the Native American Programs Act, Kānaka Maoli are eligible for some federal assistance programs originally intended for Native Americans. Multiple attempts have been made to legally recognize Kānaka Maoli Tribal sovereignty. The Kingdom of Hawaii was recognized by the federal government in 1846 and entered into treaties with the major nations of the world.
- **Indigenous peoples in the U.S. territories** were not recognized as Tribes as of late 2024, though in some cases Indigenous people make up a majority of the population, such as in American Samoa and Guam. In Guam, the Organic Act of Guam grants Chamorro Indigenous Peoples some level of self-determination and cultural preservation, and there are ongoing efforts to achieve full federal recognition for the Chamorro people as a Tribe.

Understanding the Tribal-Federal Trust Relationship



The federal government treats Tribal governments as nations within a nation, distinct from states. The [federal government serves a fiduciary role, holding Tribal lands in trust](#) on behalf of Tribes. This kind of federal trust is wholly unique and is foundational to Tribal sovereignty. Tribes can buy, acquire, or be gifted lands. They also have the option to convert land to trust, although this process can be limited by states for land outside the existing Tribal reservation boundaries, which are often defined in treaties.

Tribal rights are [usufructuary](#), meaning that the United States has the right to use the property (e.g., Tribal land and water), but the U.S. does not own it and cannot damage, destroy, or dispose of it. The United States must also responsibly maintain the property and meet treaty conditions that allow the United States to continue to occupy Tribal land, such as upholding [Tribal rights to hunt and fish](#) or providing specific [health care to Tribal members](#). Tribes and Tribal members only have special rights in the sense that the U.S. government must meet specific ongoing treaty rights to continue legally occupying Tribal land.

Laying the Groundwork for Good Governance

Policy Examples for State Legislators

→ Create Dedicated Liaisons at the Cabinet Level

New Mexico's State-Tribal Collaboration Act ([S.B.196](#); enacted 2009) requires cabinet-level agencies to develop policies that promote communication and cooperation between Tribes and state agencies, ensures that each executive agency permanently designates a Tribal liaison, provides for an annual state/Tribal summit, provides for training state agency managers who work with Tribes, and requires an annual report that accounts for each executive agency's activities pursuant to the Act.

→ Formalize Government-to-Government Relationships

Minnesota recently established a government-to-government relationship with Minnesota Tribal governments ([H.F. 903](#); enacted 2021). The bill acknowledges the unique status and rights of the 11 federally-recognized Indian Tribes in Minnesota. It specifies that agencies must recognize the unique legal relationship with Tribal governments, implement and update consultation policies biannually, and consult on legislative and fiscal matters to proactively engage Tribal governments in decision-making processes. Agencies must consider Tribal input in their decisions, designate a Tribal liaison, and ensure relevant staff complete Tribal relations training.

→ Make a Commitment to Future Relationships

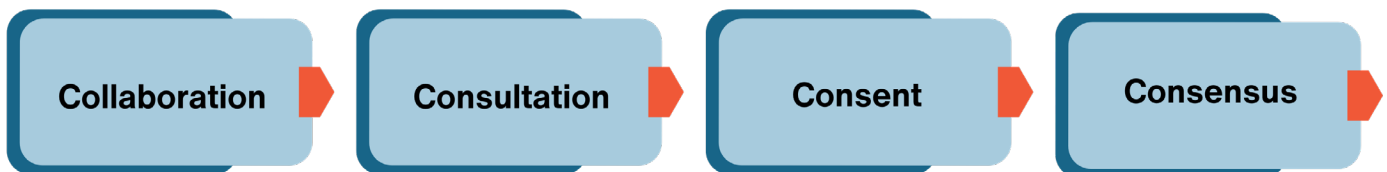
In 2024, California made what Governor Newsom described as “[a down payment on the state's commitment to do better](#)” by returning over 2,800 acres of land to the Shasta Indian Nation. The land is largely former dam sites recovered as part of what is currently the largest river restoration project in U.S. history. With this historic commitment to Tribal futures, California restored both 300 miles of salmon habitat in the Klamath River and Indigenous people's relationship with sacred sites that are “[critical to the spiritual and emotional health of \[the Shasta Indian people\]](#)” - Shasta Indian Nation Chairperson Janice Crowe.

→ Repent Before Repair

In 2019, California issued a formal apology via [Executive Order](#) for the state's infliction of “violence, mistreatment and neglect” upon “California Native Americans throughout the state's history.” The Executive Order also announced the creation of a Truth and Healing Council, which aims to clarify the historical record between Tribes and the state in order to build an accurate account of the “diversity of experience of all California Native Americans...through ongoing communication and consultation.” The first report on the Council's findings is expected in 2025. This marks the first time a state has both acted to tell the truth about the past and taken steps to prevent future harms.

Understanding State/Tribal Decision Making

Not all decisions made with Tribes fully reflect inherent sovereignty and the right to self-determination. States' level of engagement [exists on a spectrum from collaboration \(a good starting point\) to consensus \(a win-win\)](#). See the next page for more about each type of engagement, along with representative laws.



Forms of State/Tribal Government-to-Government Relationships

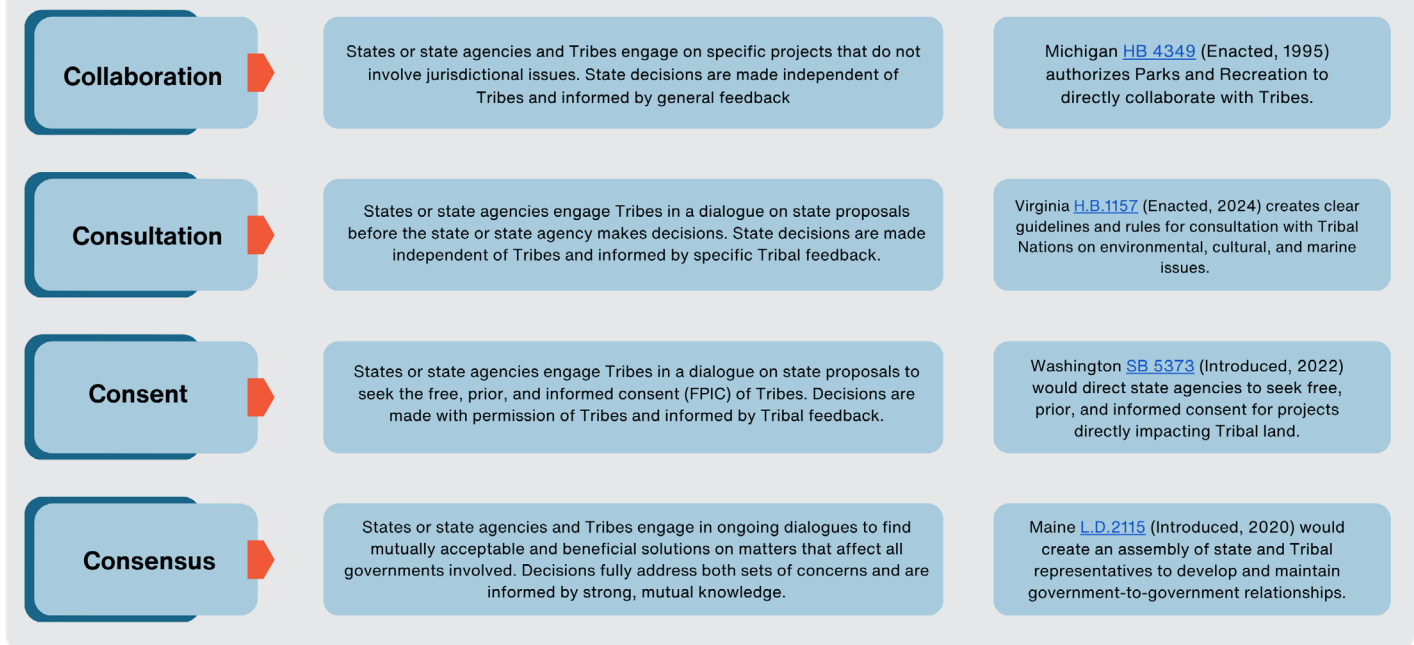


Figure 1: Infographic showing the spectrum of states' level of Tribal engagement, from collaboration (a good starting point) to consensus (a win-win). Included are descriptions and policy examples for each type of engagement.

What is Consultation?

[Tribal consultation](#) — a concept designed by the federal government—typically occurs between Tribes and the federal government as a means of discussing federal proposals (for example, rules proposed by the Bureau of Land Management around leasing for transmission lines). All federal agencies should provide advance notice to Tribal leaders of upcoming consultations and explain how the final agency decision incorporates Tribal input.

Tribal consultation is a formal, two-way process in which the federal government and Tribal representatives discuss federal proposals before the agency makes a decision. The Bureau of Indian Affairs (BIA) and other federal agencies host tribal consultations to:

- Honor the nation-to-nation relationship
- Hear from Tribal leaders on issues that impact Indigenous Americans and Alaska Natives
- Address Tribal needs and respect Tribal input

Consultation is triggered any time there's a federal agency action that may have substantial direct effects on one or more Tribes, the relationship between the federal government and Tribes, or the distribution of power and responsibilities between the federal government and Tribes. The Department of the Interior, for example, facilitates Tribal consultations on a broad array of topics.

Consultation is intended to provide sufficient advance notice (30 days) to allow Tribal leaders to meaningfully participate in consultation about the decision at hand. It is also intended to provide a formal process for the federal agencies to respond to Tribes and explain how Tribal input was incorporated into the final federal decision.

Consultation is sometimes criticized for being [performative](#) or for [paradoxically silencing](#) Tribes. State and federal regulators often deny Tribes participation by citing the minimum legal standard for consultation rather than following the consultation recommendations of state, federal, and global advisory bodies. State and federal regulators can also create performative processes through “procedural narrowing,” that is, deliberately shifting or compressing the scope and timing of engagement so that Tribal feedback cannot be meaningfully incorporated before final decisions are made.

All states are required to engage in the consultation process when making decisions that could impact the relationship between the federal government and Tribes, such as when state projects receive federal funding. Some states, such as Virginia ([H.B.1157](#)), clarify that all state actions with the potential to impact Tribal lands and waters trigger consultation processes. States also have the opportunity to authorize or require more meaningful decision-making processes, like consent or consensus, as explained below.

What is Free, Prior and Informed Consent?

[Free, prior and informed consent \(FPIC\)](#) is the basis for both Consent and Consensus relationships. Implementing FPIC fully recognizes Tribal Nations' rights to self-govern and promotes healthy ongoing relationships. It is defined as:

- **Free:** Consent is freely-given with no manipulation or coercion. This often requires self-direction by impacted Tribal Nation(s).
- **Prior:** Consent is given before any decisions are made or actions are taken.
- **Informed:** Consent is based on full information of the issue, including the nature, size, pace, reversibility, scope, reasoning, and duration of a project, and especially the economic, environmental, and cultural impacts.
- **Consent:** Decisions and permissions (or lack thereof) are respected. Consultation is not a substitute for actual consent.

It should be noted that the U.S. federal government does not recognize or operate from the parameters of FPIC.



State/Tribal Environmental Policy Toolkit

Returning Land

Overview

Returning land to Tribes re-establishes Tribal control over Indigenous land, typically by transferring land to Tribes or by supporting Tribes in transferring land into federal trust. Often called land rematriation (used interchangeably in this toolkit with “returning land”), these initiatives acknowledge that all land in the United States previously belonged to the Tribes who lived there prior to European contact. [Federal \(Tribal\) Trust Land](#) falls under full Tribal jurisdiction and is eligible for unique Tribal and federal programs. [Over 66 million acres](#) of Tribal land is currently held in federal trust, comprising nearly 3% of all land in the United States.

Restoring Tribal jurisdiction carries many benefits. By restoring original land relationships and holding land in perpetual public trust, state governments can preserve [community assets and cultural sites](#) and can increase opportunities for outdoor access, including hunting, fishing, and gathering rights that are vital to Tribal communities. Data shows that when Tribes are able to practice traditional and contemporary ecological management techniques, [biodiversity improves](#). Land rematriation also [restores social and decision-making powers](#) to Tribal governments, which elevates their ability to self-determine their futures, a key tenet of federal Indian law.

How Can States Support Land Rematriation?

Identify sacred land

Maine [L.D.1349](#) (introduced 2024) would review state-owned lands and waterways for those that are sacred or traditional or hold a special significance to Wabanaki Nations and identify means to return the acreage where appropriate.

Fund land return projects

California [A.B.408](#) (introduced 2023) would prioritize funding agricultural projects that return land to Tribes. [Food sovereignty](#) is critical for Indigenous self-determination, but many Tribes lack adequate land to enact successful farm programs.

Let Tribes buy Tribal land

Minnesota [H.F.3911](#) (enacted 2024) gives Tribes a limited right of first refusal when state land within the boundaries of Tribal reservations is put up for sale. The law also returns several parcels of land to Tribes.

Exempt land being converted to trust from property tax

Reducing costs associated with converting land to trust supports Tribal efforts to conserve land. [Montana](#) temporarily (for five years) exempts from property tax Tribally-owned land that is in the process of being converted to federal trust land. Montana [S.B.119](#) (introduced 2025) would apply the same exemption to land owned by Tribal members and requires the state to notify Tribes of this exemption.

Return state public land

In [H.F.2310](#) (enacted 2023), Minnesota returned the (now former) Upper Sioux Agency State Park to the Pezihutazizi Oyate (Upper Sioux Community), and established new public recreation access points in the State Park via [H.F.2887](#) (enacted 2023).

Support restoring land to trust

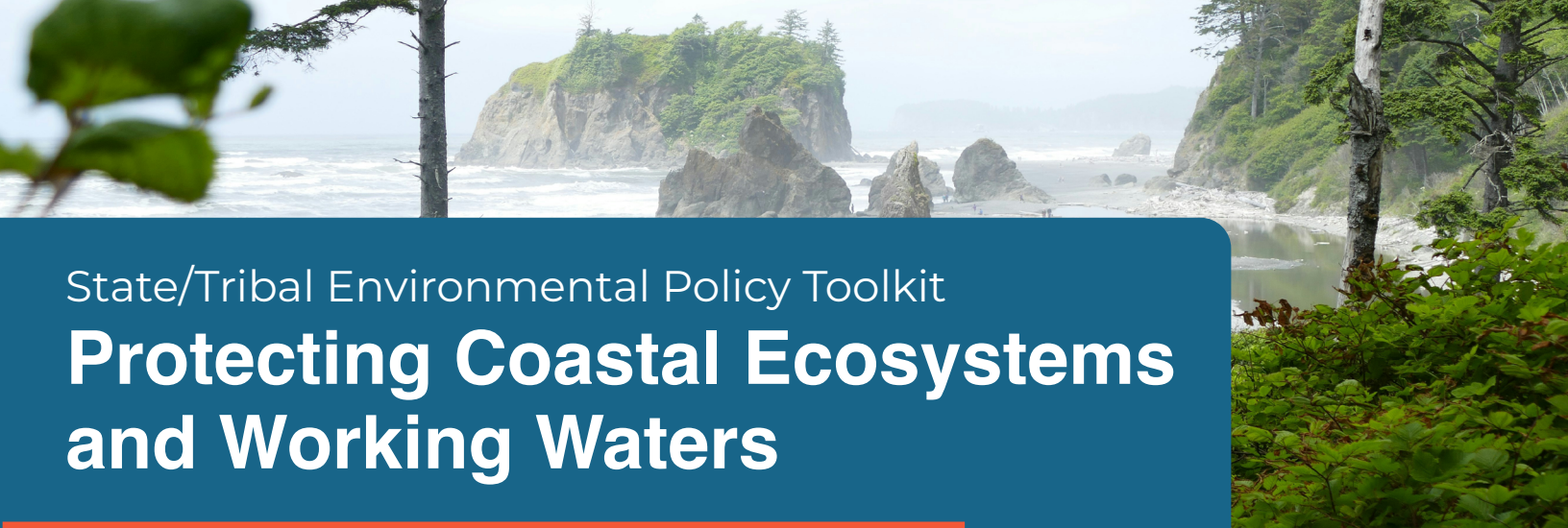
Converting Tribal land to federal trust restores land to full Tribal jurisdiction and builds Tribal sovereignty. Rhode Island [H.B.7762](#) (introduced 2024) would recognize the sovereignty of the Narragansett Indian Tribe across the state and remove state-level barriers to placing Narragansett-owned land into federal trust.

Reduce barriers to accessing federal funding

Tribes are not currently directly eligible for federal Land and Water Conservation Fund (LWCF) grants—which include programs for land reacquisition—and instead have to apply through states. New Mexico [S.B. 169](#) (enacted 2024) prioritizes state allocation of LWCF funds for Tribal Nations and rural communities, removes funding match requirements for applicants, and includes opportunities for technical assistance.

Establish a land return grant program

Land return, coupled with funding from the state, can help ensure the longevity of management once ownership is transferred. California's first-ever ancestral land return effort was facilitated through the state's [Tribal Nature-Based Solutions Grant Program](#), which provided \$100 million in funding for the return of roughly 40,000 acres to Indigenous communities.



State/Tribal Environmental Policy Toolkit

Protecting Coastal Ecosystems and Working Waters

Overview

Restoring Tribal management of ocean ecosystems and resources is closely related to land repatriation. Both initiatives work to restore and honor Tribal self-determination and sovereignty. The urgency around protecting ocean and coastal resources is growing as sea levels rise, with eleven Tribes — and certainly more to come — needing to [move from ancestral coastal lands](#) due to climate change impacts. Climate-driven relocation echoes the [forced relocation](#) that many Tribes already experienced. Although the federal government recently committed [\\$135 million](#) to support these relocation efforts, associated economic, social, and environmental [costs will only increase](#).

Oceans are not clearly defined in many Tribal treaties, making the line between Tribal, federal, and state jurisdiction ambiguous. Treaties that mention the ocean often do so only in reference to fishing rights, sovereign rights that have not been upheld consistently. These blurry boundaries shed light on the importance of states supporting the restoration of Tribal management of oceans, as well as fishery and marine conservation.

How Can States Support Tribally-Led Ocean and Coastal Conservation?

Restore Tribal fisheries

States have a unique opportunity to collaborate on restoring ecosystems and Tribal jurisdiction over fisheries. Washington [S.B.6143](#) (introduced 2024) would require consultation with Tribal fisheries restoration experts when adopting salmon recovery guidelines, and California [S.B. 1218](#) (introduced 2010) would require that the management plans for state hatcheries and fisheries adequately provide for the recovery of Tribal fisheries.

Coordinate fisheries management research

States can respect Tribal jurisdiction over ocean resources by investing in stronger, coordinated fisheries relationships with Tribes. Alaska, for example, established a [Tribal Research Coordinator](#) in their Fisheries Center.

Collaborate on fisheries management

Many fishery management plans are determined by federally-created regional councils. As of 2024, only two out of eight [regional fisheries councils](#) (North Pacific and Pacific) have explicit Tribal representation. States can support this effort by introducing resolutions to expand the number of Tribal representatives on regional councils.

Support Native aquaculture operations

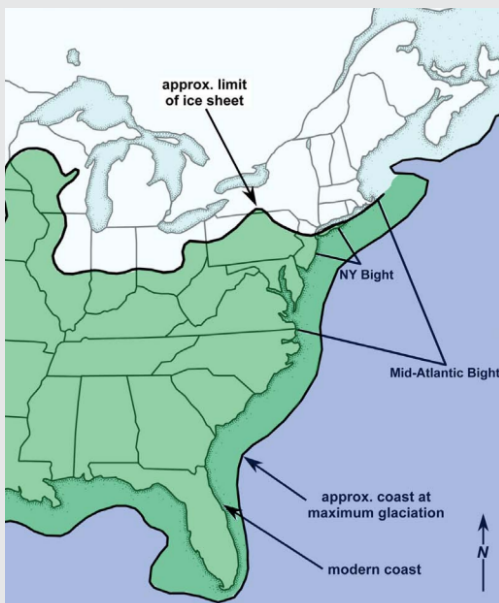
Aquaculture and mariculture operations are gaining mainstream popularity; these are practices that Native communities have engaged in for generations due to their environmental, cultural, and subsistence benefits. For example, [restorative kelp farming](#) helps restore habitats critical to keystone species like salmon and herring while mitigating oil spill zones. Regenerative [shellfish aquaculture](#) projects can filter waters by removing excess nutrients and serve as economic engines for Native communities. By partnering with and supporting Native-led aquaculture efforts, [states can support Native self-determination](#), grow local economies, and protect key species and ecosystems.

Support Indigenous marine stewardship

[Indigenous Marine Stewardship Areas \(IMSAs\)](#) are a “defined geography in ocean and coastal waters that are designated by a Tribal Nation(s) to achieve long term stewardship, management and co-management of ecosystem services, and support cultural lifeways

and economies.” States can support the designation of IMSAs through prioritizing close collaboration with Tribes during conservation planning. For example, included in the [California Natural Resources Agency Pathways to 30x30: Accelerating Conservation of California’s Nature plan](#) is a recommendation to explore administrative or regulatory mechanisms for California Native American tribes to establish IMSAs focused on enhancing biodiversity and resilience. As a result, three Tribal Nations in CA have protected [700 miles of ocean](#) through the establishment of the Yurok and Tolowa Dee-ni’ Indigenous Marine Stewardship Area, the United States’ first IMSA.

Protecting Ocean Cultural Heritage



Humans have lived on the coasts of North America for millennia, but coastlines have significantly receded over thousands of years. Historic sites, many now under water, are an irreplaceable part of our shared history yet very difficult to find.

Offshore development could destroy critical knowledge of early human history unless the federal government agrees to make significant changes to Tribal consultation and cultural heritage management. Fortunately, states can implement [Bureau of Ocean Energy Management \(BOEM\) best practices](#) and work directly with Tribes—especially on offshore developments—for [better cultural heritage management](#).

Image from BOEM



State/Tribal Environmental Policy Toolkit

State/Tribal Co-Management & Co-Stewardship

Overview

State/Tribal co-management is a partnership arrangement between Tribes and states (sometimes between Tribal agencies and state agencies) to share responsibility and authority for the management of a resource, often state parks or other public lands. Co-management allows states and Tribes to build community investment, integrate Indigenous and western knowledge, and maximize resources to rescue cultural and natural heritage threatened by climate change, industrial pollution, and the biodiversity crisis.

[Co-stewardship](#) refers to broader collaborative or cooperative agreements that may include a variety of activities, such as information sharing, combining capabilities of agencies, and other actions related to conserving and managing natural resources. While effective, it falls short of fully sharing assets, resources, and decision-making authority, which are the cornerstones of full co-management.

Tribal Nations and the federal government have a history of successful co-stewardship models. These include hundreds of longstanding co-stewardship agreements, some [dating back decades](#), as well as over 200 new co-stewardship agreements signed between 2020 and 2024.

Policy Options

Establish and recognize Tribal partners

Arizona [H.B.2804](#) (introduced 2024) would further Tribal-state relationships by directing state and local government buildings, parks, libraries, and similar facilities to co-create and prominently display specific Tribal land acknowledgments. Meaningful land acknowledgments can empower states to remember Tribal partners when making decisions about their ancestral and contemporary homelands.

Encourage co-stewardship, especially of cultural sites

Hawaii [S.C.R.93](#) (introduced 2022) urges federal, state, and local governments to co-steward ancestral sites with Native Hawaiians.

Create pathways to co-management

California [A.B.1284](#) (enacted 2024) authorizes the Secretary of the state Natural Resources Agency or a delegate to begin government-to-government negotiations on co-governance and co-management agreements with a particular Tribe, with negotiations to begin within 90 days of a Tribe's request.

Match Tribal investments in co-management

Minnesota [HF 2310](#) (enacted 2024) matches Tribal resources invested in co-managed projects with general funds.

Co-steward game and fish

States including [Minnesota](#), [Oregon](#), and [Wisconsin](#) co-steward game and fish populations. State and Tribal agencies collaborate on hunting and fishing licensing, often restoring Tribal rights to self-manage subsistence and ceremonial hunting and fishing.

Tribal Co-Management at Michigan's Ezhibiigaadek Asin (Sanilac Petroglyphs)



Image Source: [Michigan History Center](#)

In 2019, the [State of Michigan and the Saginaw Chippewa Indian Tribe](#) agreed to co-manage Sanilac Petroglyphs Historic State Park. This co-management agreement has led to newly expanded resources for visitors, new management strategies, and deep, meaningful relationships. In 2024, the MI Department of Natural Resources and the Saginaw Chippewa Indian Tribe co-hosted a traditional Indigenous solstice ceremony where all parties spoke openly about the challenges and many benefits of co-management.

State legislators empowered Parks & Recreation to serve as lead agency and protect state heritage ([H.B.4349](#); enacted 1995) and provided funds to resolve deferred maintenance issues ([H.B.5396](#); enacted 2020).



State/Tribal Environmental Policy Toolkit

Good Governance Models

Overview

Strengthening the relationship between states and Tribal Nations is essential for effective governance and equitable policymaking. States can foster mutual understanding and cooperation by providing educational resources, establishing formal communication channels, and empowering Tribal self-governance to create a more inclusive, just, and sustainable environment for all citizens.

1. Mutual Understanding

Offer legislators educational resources

States like [Minnesota](#) offer legislators training on Tribal issues. Montana [SB 233](#) (introduced 2023) and Oregon [HB 3529](#) (introduced 2025) would promote the education of legislators in state/Tribal politics to help them better represent all constituents, Native and non-Native alike.

Offer Tribes and Tribal citizens educational resources

New York [S.9472](#) (introduced 2024) would establish an Office of Native American Affairs for Tribal Nations to access information on state programs available to Tribal Nations and Native American state residents.

Create uniform standards for Tribal consultation

Virginia [H.B.1157](#) (enacted 2024) creates guidelines and rules for consultation with Tribal Nations on environmental, cultural, and marine issues.

Study appropriateness of state services

Hawaii [H.R.21](#) (enacted 2024) directs the Office of Hawaiian Affairs to identify and report on factors that make it more difficult for Native Hawaiians to access and benefit from public economic development, education, health, and housing programs. Native Hawaiian people, Kānaka Maoli, are largely denied self-determination and rely on state services that are sometimes culturally inappropriate and even discriminatory.

2. Strategic Partnership Roles and Offices

Establish a Tribal legislative liaison office

Michigan [H.B.5600](#) (enacted 2024) established a Tribal Legislative Liaison office to serve as a point of contact between Tribes and the legislature. H.B.5600 also provides for state/Tribal learning resources for legislators. H.B.5600 builds on a series of state [executive accords](#) with Tribal governments and longstanding relationships among the governor's office and Tribal leadership.

Establish cabinet-level Tribal executive liaison positions

Multiple states, such as [Oregon](#), have a director of Tribal Affairs or similar cabinet-level position in the governor's office who serves as a liaison between Tribes and the executive branch.

Establish Tribal liaisons in agencies

[Maine](#) (enacted 2021) established in every agency a Tribal liaison who reports directly to the head of the agency. The law requires agencies to have a Tribal engagement and cooperation policy that has been reviewed and approved by Tribes.

Establish a state/Tribal assembly

Maine [L.D.2115](#) (introduced 2020) would create an assembly of state and Tribal representatives to develop and maintain government-to-government relationships.

3. Elevating Self-Governance and Self-Determination

Ensure compliance with federal Indian law

Maine [L.D. 2007](#) (enacted 2023) makes substantial changes to the [Maine Indian Claims Settlement Implementation Act](#) to help the Wabanaki Nations in Maine exercise their inherent right to self-govern, as all other federally-recognized Tribes are able to do under Federal Indian Law. The bill will implement many of the [22 consensus recommendations](#) reached by a bipartisan task force including Tribal court jurisdiction; hunting, fishing and natural resource regulation on Tribal land; taxation authority; and trust land acquisition.

Prioritize and reach out to Tribes on conservation funding

New Mexico [S.B.169](#) (enacted 2024) prioritizes state allocation of Land and Water Conservation Fund (LWCF) funds for Tribal Nations and rural communities, removes funding match requirements for applicants, and includes opportunities for outreach and technical assistance in applying for an LWCF grant.

Clarify Tribal eligibility for state grant and loan programs

Montana has enacted multiple policies (e.g., [H.B.428](#), 2019) that clarify Tribal eligibility for state funding programs. Tribes are often strongly positioned to lead state investments in climate, conservation, and both urban and rural economic development programs.

4. Establishing Truth & Reconciliation Processes

Establish a Truth and Reconciliation Commission

South Dakota ([S.B.154](#), introduced 2024) would establish a Truth and Reconciliation Council, while Vermont ([H.649](#), enacted 2024; and [H.362](#), introduced 2025) continues to pursue enhancements to their existing Truth and Reconciliation Council and. In 2019, California

launched a Truth and Healing Council, which aims to clarify historical records between Tribes and the state.

Establish a Truth & Reconciliation Commission (TRC) on specific topics

Maine established one of the first TRCs in the world, a Child Welfare [Truth and Reconciliation Commission](#), especially focused on the stolen generation and the ongoing alienation and mistreatment of Native children in state care systems. While focused on youth care systems, the TRC has had a significant, lasting positive impact on how Maine engages with Tribes and Tribal issues in multiple areas, including the environment. States are establishing similar commissions on Indian Boarding Schools, [MMIWG2S](#) (Missing and Murdered Indigenous Women, Girls, and Two-Spirit People), health equity, and more.

Recognize non-federally-recognized Tribes in specific circumstances

When appropriate—as determined by FPIC with related federally-recognized Tribes—states can offer state recognition. State recognition acknowledges the rights and historical contributions of Tribes and provides access to benefits from U.S. agencies and programs that are only available to state-recognized Tribes. State recognition is often a step towards federal recognition (ex: the 2024 [State Recognition of the Herring Pond Wampanoag Tribe](#) in Massachusetts). Many state-recognized Tribes in good standing with federally-recognized Tribes have filed for federal recognition and have letters of support from closely related federally-recognized Tribes.



State/Tribal Environmental Policy Toolkit

Restoring Relationships

Overview

Stronger state/Tribal relationships depend on mutual understanding and respect. While the issues on this page may not be seen as conventional environmental issues, they offer examples of significant state barriers, both legal and structural, that discourage collaboration with Tribes. Many Tribal Nations also consider restoring and caring for land to also include bringing ancestors and children home. The following policy options can create stronger relationships, build mutual understanding, and grow capacity to collaborate on conventional environmental issues.

Restoring Jurisdiction

Despite being sovereigns only beholden to acts of Congress, Tribes often have limited or competing criminal jurisdiction with states. In 1953, as part of a [concerted effort](#) to renege on treaties and [forcibly assimilate](#) Tribes, [Federal Public Law 280](#) granted states the option to claim law enforcement jurisdiction over Tribal lands. This law, however, does not override hunting and fishing treaty rights that were often threatened during the [termination era](#) of federal Native American policy.

Competing jurisdiction can be both confusing and limiting, and PL 280 creates confusion around both fundamental treaty rights and conservation enforcement cases for crimes such as poaching. [Many states](#) still claim law enforcement jurisdiction over Tribal lands despite PL280 being [widely denounced](#).

Per [McGirt v. Oklahoma](#), Tribes often retain law enforcement jurisdiction over treaty-established Indian Country unless reservations were disestablished by an act of Congress.

Allow Tribes to seek jurisdiction

Washington [H.B.2233](#) (enacted 2012) allows Tribal governments to end state interference in Tribal court jurisdiction.

Reinforcing the Native American Graves Protection and Repatriation Act (NAGPRA)

[NAGPRA](#) was implemented by Congress in 1990 because of historical and ongoing human rights abuses against Native American human remains and cultural patrimony. NAGPRA makes it illegal to privately own Native American human remains, requires human remains to be treated with respect and dignity, and requires federally-funded institutions to repatriate Native American human remains, grave objects, and specific sacred ceremonial items. Nevertheless, museums and universities still hold [at least 100,000](#) Native American remains in spite of Tribes' efforts to have them returned. As of 2023, NAGPRA also requires Tribal consent before displaying human remains or cultural items.

Tribal priorities to protect burial sites and ancestral remains often overlap with those of environmental protection NGOs to protect land from unnecessary "development." For example, an NGO may be advocating to protect a forested area from destruction for a highway project while the local Tribe may also be

working to protect that same area due to local Tribal knowledge of likely burial sites. States can support these efforts to prevent environmental destruction by being willing to engage respectfully and appropriately - through adequate consultation - with Tribes prior to final decisions about a given project.

Enforce NAGPRA at a state level

Illinois [S.B.3585](#) (introduced 2024) requires state-funded institutions to comply with NAGPRA and overhauls state museum administration to represent and include Tribes.

Collaborate to protect Native American human remains

Illinois [H.B. 3413](#) (enacted 2023) transfers ownership of Native American human remains and archaeological sites to Tribal Nations (Native American human remains were previously owned by the state) and drastically strengthens protections for Native human remains and archaeological sites. Illinois [H.B. 3413](#) also authorizes the state Department of Natural Resources to collaborate with Tribal Nations on reburying ancestors on state land, allowing ancestors to return to their homelands in a safe, protected place. Up to [95% of Native American burials](#) on unprotected public land face desecration and graverobbing.

Reinforcing the Indian Child Welfare Act (ICWA)

[ICWA](#) was implemented at a federal level because American Indian and Alaska Native children are disproportionately removed from their home cultures and communities, leading to serious community and child welfare problems. These removals have been perpetrated for centuries, and the impacts span generations. A challenge to ICWA—considered the “[gold standard of child welfare policy](#)”—was recently rejected by the U.S. Supreme Court, which upheld the law. By reinforcing ICWA at the state level, lawmakers can help protect the unity of Tribal communities and prevent backslides that threaten to undermine Tribal sovereignty. ICWA prioritizes keeping Indigenous children within their families and communities and maintaining cultural knowledge and practices, including traditional land stewardship and environmental preservation. ICWA builds environmental resilience by keeping communities

intact and preserving cultural knowledge that can be used to adapt to climate change and recover from environmental justice burdens.

Establish ICWA in state law

States can protect Native American families and communities by reinforcing ICWA at a state level. [Fifteen states](#) have passed state-level ICWA-like laws that build on federal protections.

Study implementing ICWA in state law

Wyoming ([H.B.19](#); enacted 2023) opted to study federal and other state laws implementing ICWA and empowered a task force to develop recommendations for Wyoming to enact a similar measure.

Recognizing Rights of Nature

Rights of Nature recognize the rights of ecosystems to a healthy and safe existence, often affirming their inherent and intrinsic value. Under Rights of Nature laws, representatives of an ecosystem may take legal action if its rights are violated (e.g., by pollution or other environmental degradation). Rights of Nature laws advance environmental policy by merging [traditional Indigenous knowledge](#) and cutting-edge conventional science, both of which see ecosystems as vitally important and inextricably interconnected systems.

Over [60 U.S. cities and counties](#) have enacted Rights of Nature laws. At least [33 countries](#), including [nine Tribal Nations](#), recognize some form of Rights of Nature.

Include Rights of Nature in regulations

New Hampshire [S.B.164](#) (introduced 2023) would define biodiversity and create a form contract to preserve the rights of domestic animals and wild animals. Minnesota [S.F.3756](#) (introduced 2022) would promote local and regional regenerative food systems to address food, water, and climate challenges sustainably, including by recognizing the Rights of Nature.

Amend the state constitution

Hawaii [H.B.2077](#) (introduced 2024) would enshrine the rights of watersheds to exist in the state constitution.

Recognize a specific entity

North Carolina [H.B.795](#) (introduced 2023), “The Rights of the Haw River Ecosystem River Act,” would have provided for both the Rights of Nature itself and the rights of the people to a healthy environment. While H.B.795 did not pass, it helped [stop a pipeline being routed through the vulnerable Haw River system](#). As of 2024, North Carolina is also considering the rights of the Dan River system ([H.B.923](#)). Likewise, states like Hawaii ([H.B.693](#); introduced 2021) have considered protecting similarly significant and vulnerable systems.

Investing in Future Generations

While this toolkit is aimed at filling current decision makers’ gaps in knowledge, the authors also recognize the importance of investing in future generations of decision makers by equipping Native and non-Native youth with the knowledge they need to continue to strengthen good relationships. States are increasingly pursuing policy options to include curriculum in public schools that focuses on Native American history, cultures, and current contexts ([MA](#), [WA](#), [MN](#), [VA](#), and [MO](#)).

Glossary

Alaska Native | A person who is recognized as Indigenous by a federally-recognized Alaska Native Tribe or Village, or by the United States. Alaska Native land is owned and managed by either Alaska Native Villages (conventional sovereign Tribal Nations) or Alaska Native Corporations (ANCs). An ANC is a corporation established under the Alaska Native Claims Settlement Act (ANCSA) of 1971. ANCSA was enacted to end land title disputes arising from the fact that Alaska Natives never ceded land to settlers through treaties or otherwise. ANCs are recognized as Tribes for the purposes of receiving services but have limited rights to self-govern.

American Indian | "A term that refers to the Indigenous peoples of the contiguous United States and usually excludes Alaska Natives and Native Hawaiians. This term is more commonly used in academia and as a demographic label. According to the [Indigenous Futures Survey](#), this term has fallen out of favor with Indigenous people as only 4% of those surveyed choose to identify as 'American Indian.' However, like 'Alaska Native,' it has a very important legal and political classification because this is the term referenced throughout U.S. statutes that govern the nation-to-nation relationship between Tribes and the federal government, grounded in the constitution and individual treaties." (Native Americans in Philanthropy)

Doctrine of Discovery | The doctrine of discovery was a set of 15th-century principles that allowed European nations to claim land if it was inhabited by people who Europeans considered "uncivilized." The doctrine of discovery is no longer used in most of the world; however, the doctrine of discovery was regularly cited by the United States Supreme Court [as recently as 2005](#).

Domestic Dependent Nations | A term coined by Supreme Court Justice John Marshall that basically establishes Tribes as sovereign within their territory, with the federal government functioning as a sort of guardian to the Tribe. Tribes are located within the United States ("domestic"), Tribes are subject to the federal government's power and responsibilities ("dependent"), and Tribes have sovereign powers over their people, property, and activities ("nation").

Federal Indian Law | A complex body of law that governs the relationship between the United States federal government and Native American Tribes. Federal Indian law defines the legal and political status of Tribes, their relationship with the federal government, and their role in federalism. Federal Indian law consists of the Constitution, treaties with Tribes, Federal statutes and regulations, executive orders, and judicial opinions.

Federal Trust Responsibility | This means that the federal authorities will protect Tribes' sovereign status, their lands and Tribal property, and their rights as domestic dependent nations. The federal Indian trust responsibility is a legal obligation under which the United States "has charged itself with moral obligations of the highest responsibility and trust" toward Indian Tribes ([Seminole Nation v. United States](#)). The federal Indian trust responsibility is also a legally enforceable fiduciary obligation on the part of the United States to protect Tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of federal law with respect to Tribes. ([Indian Country 101](#))

Federally Recognized Tribes | American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation, and is eligible for funding and services from the Bureau of Indian Affairs. Federally recognized tribes are recognized as possessing certain inherent rights of self-government (i.e., tribal sovereignty) and are entitled to receive certain federal benefits, services, and protections because of their special relationship with the United States. At present, there are 574 federally recognized American Indian and Alaska Native tribes and villages. ([Bureau of Indian Affairs](#)).

Food Sovereignty | When communities can self-determine the quantity and quality of the food that they consume by [controlling how their food is produced and distributed](#). Food sovereignty offers long-term health benefits, economic stability, and cultural revitalization of Indigenous communities. Tribes are increasingly regaining control of their food supply by growing traditional foods on their own and collaborating with the federal government. Traditional foods support physical, mental, and spiritual health.

Historically Recognized Tribes | The U.S. Government Accountability Office has identified approximately 400 non-federally-recognized Tribal entities in the U.S. Some non-federally-recognized Tribes lost their recognition as a result of federal government actions in the 1950s and 1960s that terminated government-to-government relationships with Indian Tribes, making them now ineligible to apply to the Bureau of Indian Affairs (BIA) for recognition.

Indian Boarding Schools | Also known as residential schools, Indian boarding schools were a network of institutions established by the United States government and Christian churches during the 19th and 20th centuries. These schools forcibly removed Indigenous children from their homes and communities, often placing them hundreds or thousands of miles away from their families. The stated intent of these removal policies was to eradicate Indigenous cultures and languages and assimilate the children into dominant white culture. Four off-reservation Indian boarding schools still operate as of 2024, though they are now framed as an alternative to poorer quality on-reservation education.

Indian Child Welfare Act (ICWA) | Federal law that protects the rights of American Indian and Alaska Native children and families. ICWA was enacted in 1978 to address the disproportionate removal of Native children from their homes. ICWA establishes minimum standards for removing Indigenous children, placing Indigenous children in homes that reflect Indigenous culture, and handling child abuse and neglect. It also gives Tribal governments exclusive jurisdiction over children who live on reservations, provides guidance to states, establishes preferences for placing children with family and Tribal members, and provides protections for parents regarding the termination of their parental rights.

Indian Country | In contemporary usage, particularly among Tribal Peoples, "Indian Country" often refers to the cultural and physical landscape of North American Tribes. ([Indian Country 101](#)). Federal law (18 U.S.C. § 1151) provides a legal definition of Indian country that extends beyond historical boundaries, encompassing lands where Tribal authority persists even if a state has assumed some jurisdiction or if a Tribe has acquired land in fee simple (that is, not via a treaty).

Kānaka Maoli | Native Hawaiians are the Indigenous Polynesian people of the Hawaiian Islands. Title 45 of the Code of Federal Regulations defines a Native Hawaiian as "an individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778" (Part 1336.62). Following the overthrow of the Hawaiian Monarchy, President William McKinley's Manifest Destiny plan made Kānaka Maoli the only major state-based Indigenous group with no "nation-to-nation" status with the federal government. Under the 1974 amendment of the Native American Programs Act, Kānaka Maoli are eligible for some federal assistance programs originally intended for Native Americans. Multiple attempts have been made to legally recognize Kānaka Maoli Tribal sovereignty.

McGirt v. Oklahoma | The McGirt v. Oklahoma case, decided by the U.S. Supreme Court, determined that the Muscogee (Creek) Nation's reservation in eastern Oklahoma, established by treaty, was never officially disestablished by Congress. It rules that reservations can only be disestablished by clear and unequivocal acts of Congress. This means that large portions of the state are still considered "Indian country," and that Tribal members are subject to Tribal and federal (but not state) law for major crimes. While the decision doesn't return land to the Muscogee Nation, it does recognize the Tribe's continued sovereignty and its responsibility to ensure public safety within its territory. ([The National Judicial College](#))

MMIWG2S | [MMIWG2S](#) stands for Missing and Murdered Indigenous Women, Girls, and Two-Spirit People is a community-based grassroots movement that raises awareness about and seeks to address both the epidemic of Indigenous women in the Americas who are going missing or being murdered and the lack of response by the systems meant to serve them when this happens.

Native American Graves Protection and Repatriation Act (NAGPRA) | The Native American Graves Protection and Repatriation Act (NAGPRA) is a United States federal law enacted in 1990 that governs the return of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to their rightful owners. These items are often held in museums, universities, and other institutions and often were sourced unethically or even illegally. NAGPRA requires institutions receiving federal funding to inventory their collections, identify any items that may be subject to repatriation, and consult with Native American Tribes and organizations to determine the appropriate disposition of these items. The goal of NAGPRA is to ensure that Native American ancestors and cultural patrimony are treated with respect and repatriated to the communities from which they originated.

Public Law 280 | P.L. 280 was an act passed by Congress in 1953 that extended state criminal and some civil jurisdiction into Indian Country in certain states. Congress initially gave six states extensive criminal and civil jurisdiction over Tribal lands, and it subsequently allowed other states to acquire jurisdiction. Generally, it created an increased role for state criminal justice systems in Indian country. (University of Alaska Fairbanks via IC 101)

Repatriation/Rematriation | Repatriation is the process of returning something to its place of origin or rightful owner; it often refers to the return of cultural artifacts, human remains, or other objects to their original communities. Rematriation is a more recent term, often used in Indigenous contexts, that goes beyond the physical return of objects. It involves a broader process of reclaiming Indigenous knowledge, culture, and sovereignty, particularly through the lens of Indigenous women and their roles in communities. Rematriation is a holistic approach to restoring Indigenous power and agency, often centered around Indigenous women and their roles as knowledge keepers and cultural stewards.

Reservation | An area of land established by treaty or executive order for the use of an Indian Tribe that is held either in trust by the United States government or in fee simple (complete ownership) by the Tribe for the use, possession, and benefit of the Indian Tribe. States do not have authority over reservations unless Congress explicitly authorizes them.

State Recognized Tribe | State tribal recognition does not confer the same benefits as federally recognized tribes; it acknowledges tribal status within the state but does not guarantee funding from the state or federal government. State-recognized Indian tribes are not necessarily federally recognized; however, some federally recognized tribes are also recognized by states. Federal recognition remains the primary way in which tribes seek to be recognized ([Native Nations Institute, University of Arizona](#)).

Termination Era | A period from the 1950s to the early 1970s during which the federal government pursued policies ending its special relationship with Native American Tribes. The goal was to assimilate Native Americans into mainstream American society and relieve the federal government of its trust responsibilities by terminating federal recognition of Tribes, relocating Tribal citizens, and transferring Tribal land to state and private ownership. These policies had devastating consequences for many Tribes, leading to poverty, loss of cultural identity (including language), and erosion of sovereignty.

Treaty | A treaty is a contract or a legal agreement between nations ratified by their governing bodies. In the earliest days, treaties were made between individual Tribes and the British. Later, they were made between the U.S. federal government and individual Tribes. Treaties between the U.S. and Indian Nations number between 367 and 375; scholars and compilers have not settled on a definitive number. The U.S. ceased making treaties with Tribes in 1871. (University of Alaska Fairbanks via IC 101). Treaties, per the U.S. Constitution, are the “supreme law of the land.”

Tribal Jurisdiction | The legal authority of a Native American Tribe to govern itself and its members within its designated territory. This jurisdiction includes both civil and criminal matters, and it can extend to non-Native individuals who commit crimes on Tribal land or against Tribal members. However, the extent of Tribal jurisdiction can be complex and varies depending on federal and state laws applicable to a given Tribe.

Tribal Sovereignty | The inherent right of Native American Tribes to govern themselves and their territories. It is a complex legal concept that recognizes Tribes as distinct political entities with the power to make laws, enforce regulations, and provide essential services to their members. Tribal sovereignty is inherent, meaning that it comes from Tribes being self-governing long before settlers came to the “New World.” (IC 101)

Tribe | A sovereign political entity that has a government-to-government relationship with the federal government. Tribes are also known as “domestic dependent nations” because they are subject to the federal government’s power and responsibility while still retaining their own inherent sovereignty.

Trust Land or Federal Trust Land | Land that is owned by a Tribe or Native person that the United States holds in trust on their behalf. Unlike land held in fee simple (the type of land ownership we usually think of), the federal government, instead of the individual or Tribe, holds the title for the land. (Indian Land Tenure Foundation, Center for Indian Country Development).

Truth and Reconciliation Commission (TRC) | A body that investigates and reveals past human rights violations or wrongdoing by a government or other actors. The goal is to help resolve conflict and heal after a period of war, genocide, or other internal unrest. Canada’s TRC (2008-2015) established significant legal and cultural changes, such as the creation of a national [Truth and Reconciliation Center](#) focused on healing and learning about residential schools.

Resources

1. [American Indian Law: A Beginner's Guide](#) | *Library of Congress*
Provides an overview of some of the most important of hundreds of federal statutes used by the federal government to regulate Indian affairs.
2. [Tribal Directory](#) | *National Congress of American Indians (NCAI)*
3. [Tribal Directory](#) | *Bureau of Indian Affairs*
4. [Native Governance Center](#)
Accessible, introductory-level resources on a variety of topics related to sovereignty, governance, and nation rebuilding.
5. [Native American Rights Fund](#)
Uses existing laws and treaties to ensure that U.S. state governments and the U.S. federal government live up to their legal obligations.
6. [Complicated Environmental Regulation in Indian Country](#) | *The Regulatory Review*
A brief overview of the complicated environmental regulatory landscape that Tribes — and, by extension, states — face.
7. [Tribal Nations and the United States](#) | *NCAI*
8. [Guide to Rights of Nature in Indian Country](#) | *Bioneers*
9. [Government-to-Government Models of Cooperation Between States and Tribes](#) | *NCSL*
10. [State/Tribal Archived Database](#) | *NCSL*

Notes

Restoring Relationships

State/Tribal Environmental Policy Toolkit

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