

**National Congress of American Indians
President Susan Masten
Indian Issues Briefing to the
National Governor's Association**

April 20, 2001

I would like to begin today by thanking the National Governor's Association for inviting NCAI to take part in this meeting. It was good of you to reach out and ask us to be a part of this Indian issues briefing. Too often, the NGA and NCAI do not take the time to talk directly to each other. Instead we separately take our issues to Congress. You took the first step today in bridging that gap, and we appreciate it very much.

We recognize that you have several specific issues that you plan to discuss today. I am looking forward to staying with you and having some of our people participate in the specific panel discussions. Tribal governments have a keen interest and a lot of knowledge about the issues that you are discussing, so we would love to be a part of today's discussions. I'm hopeful that this is the first of many to come. The National Governor's Association's policy position on tribal issues states:

The Governors recognize and respect the sovereignty of Indian tribal governments and support economic advancement and independence for tribes. State and tribal governments must continue to work together on many significant issues. Governors value their important relationships with tribal governments.

Given this statement from the Governors, I believe that a commitment to continue to meet in the future is one of the most important things we can accomplish today.

I would like to begin by discussing the broader context within which these specific issues arise. Here at the national level, too often we act as if the relationships between states and tribes are little more than jurisdictional battles over the hot button issues, and we ignore the many similarities between states and tribes that offer great opportunities for cooperation.

At the local level, states and tribes have lots of mutual interests: law enforcement, health care, family services, natural resources, to name just a few. Our front line workers and your front line workers are working together every day. Tribes and states also have a lot in common in other ways. Both tribal governments and state governments are confronted by limited budgets that we have to use efficiently, while trying to provide comprehensive services to our citizens. We're trying to

promote economic development while at the same time protect the environment and our quality of life. In short, tribes and states have a great deal in common because we share one very unique and fundamental attribute: we are both sovereign governments.

The fact that states and tribes are both sovereign governments should be better understood than it is. Everyone knows that the U.S. Constitution set up our federal system of government, but how many people know that the Constitution also recognizes the sovereignty of Indian tribes? Far too few. Hundreds of treaties, Supreme Court decisions, federal laws and executive orders have repeatedly affirmed that Indian Nations retain our fundamental and inherent powers of self-government. Most people are not aware of this because it is not taught in our schools.

Why is there so little understanding of tribal government in our country? The reason is found in our history. Indian tribes have been forcibly moved from one end of the country to another, our lands and resources have been stolen despite the guarantees of treaties and federal laws, and finally, when there was little left to take from us, our rights and needs have simply been ignored. This is the dark history we have inherited. A history which all of us need to understand better.

Indian tribes have not disappeared as so many thought we would. Despite enormous poverty, suffering and pressures to assimilate, Indian people have stayed together and continued to raise our children and teach them our traditions and languages, and have struggled to maintain our sovereignty and our lands. Tribes have struggled and succeeded in establishing the federal policy of tribal self-determination that was created in 1970 by President Nixon and has been endorsed by every succeeding U.S. President including our President today, President George W. Bush. Since that time, tribes are growing stronger than ever, people are moving home to the reservations, economic development is beginning to take hold in many places, and our government structures are growing ever more effective and secure.

Why have we done this? Why did our parents and grandparents and all of the great tribal leaders work so hard to reestablish tribal sovereignty? It is not because of some abstract principle or because of a sense of entitlement. It is because tribal self-government is critical for us to maintain our cultures and our viability as distinct groups of people. It is because we want our children to grow up with the same traditions and values that we grew up with. These are reasons that everyone in America can understand because these are the basic values of cultural survival

that we all share just as much as our need to breathe the air.

Although there are these common threads that run through all of tribal history, it is really unfair to generalize because Indian tribes all over the country are so distinct and our histories and circumstances vary so widely. This is a point that I would like to emphasize: it is very difficult to generalize about tribes. Just as California is not like Rhode Island, Indian tribes have a great deal of diversity in size, culture, land base, values and economic systems. Just as states need different laws and policies, so do tribes need different laws and policies to fit with their unique circumstances.

Tribes and states also share social and economic systems and we are experiencing changes that can affect our relationship. A good example of this is the growing suburbs and exurbs throughout the West. The 2000 census shows that the U.S. population is dramatically expanding into areas that were once very rural. Well, these same areas are where our reservations are. So on one hand it is no wonder that we are experiencing some growing pains as Americans move into Indian Country. The conflicts didn't occur as often when population densities were extremely low.

On the other hand, the population growth has brought economic opportunities to a number of Indian reservations where they simply did not exist before. This is good news for both tribes and states, if there is one thing we agree on, it is that we need to promote jobs for our citizens. As responsible governments we need to sit down at the table and work for mutually acceptable solutions to the growing pains — with the knowledge that these issues too will be resolved.

The transformations in the tribal economy are causing alarm in some places. Particularly with tribal gaming, tribes have been repeatedly challenged on their ability to raise revenue and create jobs. But tribal governmental gaming has grown at about the same rate as state gaming. Thirty-seven states and the District of Columbia now have state lotteries. Much of this growth in state-sponsored gaming was a direct result of budget deficits in the 1980's. States found state lotteries to be a good solution because it allowed them to raise revenue without raising taxes. State lotteries invest in education, the environment and other important programs. Tribal governments have pursued governmental gaming for similar reasons. That is, before gaming, many Indian nations were unable to fund basic government services for their people. Gaming in some parts of Indian Country has created jobs, provided economic growth and allowed investment in education, health care and housing, among other programs.

Moreover, tribal gaming has brought substantial beneficial economic and social impacts to surrounding communities. In fact, there is national evidence that Indian gaming results in the reduction in welfare payments and unemployment rates for Indian and non-Indian communities. I know that we will continue to argue over Indian gaming, but sometimes I can't figure out why we are having this argument in the first place.

Another relatively recent policy change that we are both experiencing is the rapid increase in state taxes on tobacco products and motor fuels. Tribes have never been subject to the state tax system and we have always had the ability to set our own taxes at whatever level we choose. Thirty years ago, when state gas taxes were only pennies and cigarette taxes were a nickel a pack, very few people bothered to drive out to rural Indian reservations to avoid the state taxes. Now that state taxes are much, much higher, and the population has moved out to where the tribes are, this issue has developed between states and tribes over the collection of taxes.

I am not a resident of Washington, DC, yet when I am here, I fully expect to pay the DC sales tax. Why should it be any different on an Indian reservation? How can tribes exist as governments and provide services to their people with this parity?

The reality is that most states and tribes have worked out tax compacts, but a few are still working on it. I think it is important to understand the social and historic context of these issues so that we can understand the role that both states and tribes have played in creating the issue, and then we sit at the table, government-to-government, and work out agreements that will be mutually acceptable. I don't believe that we want to hand this issue over to the federal government to resolve. We know that we will arrive at agreements that are much closer to what we want as state leaders and as tribal leaders by working together. We are very glad to hear that just this week the State of Washington and many of the tribes in Washington have been able to work out and pass state legislation that will authorize new cigarette tax compacts in that State.

States and tribes also have a great deal of common ground with regard to the increased decentralization or devolution of what were once federal programs. States and tribes are both great advocates of local control and the philosophy that the government functions better when it is closer to the people. In spite of some disparate treatment, state and tribal governments have many similar interests in devolutionary policies. We must collaborate to ensure that services are efficiently

provided to all citizens, inside and outside of reservation boundaries, and in minimizing service overlap. And of course we both want to ensure that adequate resources are provided to implement services, particularly because fixed federal block grants may be inadequate in times of economic downturn. We also have a mutual interest in ensuring that devolved programs have sufficient flexibility and realistic performance measures and reporting requirements. In the era of devolution, collaboration between states and tribes is more important than ever.

Given all of these common issues, I want to raise a critique against the NGA's policy position on tribal issues. But I want to do this in the spirit of recognition that most national organizations, including NCAI, are subject to similar criticisms. The criticism is this: NGA's policy on tribal issues does not accurately reflect the relationships that exist between states and tribes in most places. Instead, the NGA policy is overly focused on gaming and a handful of the most difficult jurisdictional issues. This is the sour without the sweet. From this policy statement, one would think that the relationship between states and tribes is nothing but a jurisdictional battle on hard core sovereignty issues. It is not that this view is inaccurate, but it is entirely incomplete.

Take a look at the issues that you have on the agenda today. These are real issues and difficult ones to be sure. But why are you spending a full day working only on the issues that divide us, and not on any areas where we need to build our cooperation in order to meet the needs of our citizens? Where is the discussion of issues such as law enforcement, welfare reform, wildlife management, water resources, education, health care, federal spending, child support, economic development or transportation? I can tell you that states and tribes are busy working on these kinds of issues every day, often finding ground for cooperation, and that we need to be working on these issues at the national level as well.

The NGA may be successful this year in pushing through some legislative measure that would diminish the authority of tribes in one area or another, but this will not allow us to find creative solutions at the local level to the issues that we are facing. I know that NCAI will work very hard to make sure that our rights are not compromised. And in the long run, I do not believe that the NGA will be able to diminish or get rid of Indian tribes and their sovereign authorities. We are growing stronger, not weaker, and we have a great deal of general support from the American public. Every public survey poll shows this, and even on the most difficult issues like gaming, the tribes have been able to take their issues to the voters and find support for tribal self-determination and self-reliance over the outdated notions of continued federal dependency.

States and tribes want many of the same things. I know for a fact that states do not want to push tribes back into the old cycle of poverty because the burdens of that poverty will fall squarely onto the state's back. We need to take a longer view of these issues and find better ways to work together and cooperate.

As I close today, I would like to challenge the National Governor's Association to rewrite its policy position on Indian issues in a way that does not overly focus on gaming alone, but that takes into account the full range of issues that states and tribes have in common. We would like to propose that we start a few joint working committees to begin to talk about the NGA policy positions and some of the key issues that we are facing. Gaming certainly merits our discussion, but we also want to talk about welfare reform reauthorization and health care issues, to name a few.

As you can see from the small green booklet, we have begun to have this type of dialogue with the National Conference of State Legislatures. The title of that book is "Government to Government," and I think that is a great theme for the future relationships that we want to have with the Governors. As responsible governments, we want to sit at the table and develop cooperative relationships where states and tribes can work together for the growth and development of Indian communities and all of our neighboring communities.

Thank you very much for the opportunity to be with you this morning, and will look forward to today's discussion.