

INDIAN COUNTRY PRIORITIES FOR THE 114TH CONGRESS

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

JANUARY 28, 2015

Printed for the use of the Committee on Indian Affairs



U.S. GOVERNMENT PUBLISHING OFFICE

20-323 PDF

WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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CONTENTS

Hearing held on January 28, 2015	Page 1
Statement of Senator Barrasso	1
Statement of Senator Cantwell	3
Statement of Senator Daines	60
Statement of Senator Heitkamp	61
Statement of Senator Lankford	61
Statement of Senator Tester	2

WITNESSES

Bohlen, Stacy, Executive Director, National Indian Health Board	40
Prepared statement	42
Davis, Gary, President/CEO, National Center For American Indian Enter- prise Development	34
Prepared statement	36
Home Gun, Vance, 2013 Champion of Change, Youth Advisory Board Mem- ber, Center for Native American Youth	54
Prepared statement	55
Monette, Melvin, President, National Indian Education Association	26
Prepared statement	28
Payment, Hon. Aaron, Midwest Area Vice President, National Congress of American Indians; accompanied by Jacqueline Pata, Executive Director	3
Prepared statement of Hon. Brian Cladoosby	5

APPENDIX

Ballew II, Hon. Tim, Chairman, Lummi Nation, prepared statement	80
Bluehouse, Randella, Executive Director, National Indian Council on Aging, Inc. (NICOA)	70
Confederated Salish and Kootenai Tribes of the Flathead Nation, prepared statement	66
Murkowski, Hon. Lisa, U.S. Senator from Alaska, prepared statement	63
Ogaard, Thomas D., President/CEO, Native American Bank, NA, prepared statement	63

INDIAN COUNTRY PRIORITIES FOR THE 114TH CONGRESS

WEDNESDAY, JANUARY 28, 2015

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m. in room 628, Dirksen Senate Office Building, Hon. John Barrasso, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

The CHAIRMAN. Good afternoon. I call this hearing to order. As soon as we have a quorum, we will move to the business meeting component of this. I want to welcome our witnesses.

As you may have heard, we have about 18 roll call votes starting at 2:30 this afternoon, and some have recommended moving this hearing to tomorrow. But given the fact that people have traveled great distances, we want to get it done today. I want to give each of you a chance to provide your testimony before we get called away for the votes.

I called this hearing to start this Congress, because it is Indian Country that we must engage when evaluating Federal Indian policy and legislation. As chairman, I am committed to following in the footsteps of my predecessors, three of whom still serve on this Committee: Senator McCain, Senator Cantwell and Vice Chairman Tester. They were part of a long line of great chairmen who were committed to improving the lives of Indian people.

The two tribes in my home State of Wyoming, the Eastern Shoshone Tribe and the Northern Arapaho Tribe, they share the goals of other tribes: safe communities, good health, a prosperous life for their families, including good jobs. These goals are often stymied by Federal bureaucracy. The Federal Government has important responsibilities to Indian tribes and people. That responsibility should not create a confusing or complex web of rules which limit the prosperity of tribes and their members.

Last week I had the privilege to provide the Congressional response to the National Congress of American Indians' State of Indian Nations address. One resounding theme of that address was to find innovative solutions and reduce bureaucracy. We have already started down that path. Last week, Senator Tester and I introduced the Indian Tribal Energy Development and Self-Determination Act Amendments of 2015. Tribes have the potential to

contribute to our Nation's energy security. This bill will tap into that potential. This legislation will cut the bureaucratic red tape and let tribes develop their energy resources, putting their destiny back into their hands and not those of the Federal Government.

Today, I have also introduced the Department of Interior Tribal Self-Governance Act of 2015. This bill had been around in some form or another since at least the 108th Congress. It is intended to improve the process for negotiating, reviewing, and approving tribal compacts with the Bureau of Indian Affairs. These compacts are key mechanisms for tribal administration of Indian programs. This bill would reduce Federal bureaucracy and promote local control and accountability.

Significant work on these measures has been done over the years. I urge this Committee and Indian Country to join me in getting these measures signed into law this year.

I intend to continue advancing legislation and oversight that serves similar purposes and improves the lives of Indian people. As chairman, my top priorities are jobs, energy and natural resource development, health care, education, juvenile justice and tribal self-governance. The more progress we can make on these issues, the more progress we can make in helping families. I cannot do that without the bipartisan work of this Committee and the vice chairman in particular. So I want to reiterate my appreciation for Senator Tester's leadership and the collaborative spirit that he continues to bring to this Committee.

I would like to ask Vice Chairman Tester if he has an opening statement.

**OPENING STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA**

Senator TESTER. I will make it very, very brief, because I understand we have some votes coming right up, and I want to hear from these folks. I just want to tell you very briefly congratulations on your chairmanship. I look forward to working with you and everybody else on this Committee to move Indian Country forward. There are a number of issues, some of which we will hear about today.

I always think about the first time I met with the large land-based tribes. And I said, what are your priorities. After about three minutes I said, we are going to have to prioritize. Because there were just too many of them.

So I think this has been a great Committee to work on. With your leadership, I look forward to good things happening.

The CHAIRMAN. With your permission, Mr. Vice Chairman, what we talked about is allowing each of our guests to have an opportunity to make their statements, because we know we are going to a series of votes. Once we get a quorum here today, we will interrupt the testimony to have the formal business meeting and the elections.

**STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Mr. Chairman, if I could just say congratulations to you in assuming the chairmanship of this Committee. As someone who has been the Vice Chair of the Committee under Senator Akaka, myself and Senator Tester, you have worked with each of us in a great collaborative fashion. We all appreciate that. So we wish you well in taking the gavel in this Committee, and look forward to working with you on the priorities that you just mentioned.

If I could just for a second thank Mary Pavel, who will be leaving the Committee as staff director. She came on during my tenure, and I appreciate her hard work and dedication on behalf of Indian Country. So thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

If we can start, I would like to welcome the Honorable Aaron Payment, who is the Midwest Area Vice President of the National Congress of American Indians, Washington, D.C. We would love to hear from you.

**STATEMENT OF HON. AARON PAYMENT, MIDWEST AREA VICE
PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS;
ACCOMPANIED BY JACQUELINE PATA, EXECUTIVE
DIRECTOR**

Mr. PAYMENT. Good afternoon, Chairman Barrasso, Vice Chair Tester and members of the Committee. My name is Aaron Payment, Chair of the Sault Ste. Marie Tribe of Chippewa Indians.

Thank you for allowing me to testify on behalf of NCAI's tribal priorities for the 114th Congress. I am pleased to be here for your first hearing as chairman, Senator Barrasso. I thank the new and returning Committee members for your service to Indian Country.

NCAI is committed to continuing its strong relationship with this Committee, so that we can partner to improve the lives of Native people. This partnership was evidence last week when Chairman Barrasso delivered the Congressional response to NCAI's State of the Indian Nations address. This is a relationship that is built on trust. The trust responsibility has developed over hundreds of years pursuant to the Constitution, numerous treaties and Federal laws.

President Cladoosby reminds us that the trust relationship is one that we have inherited. Tribal leaders are elected to uphold this trust relationship and as Senators, it is one that you agree to uphold when you take your oath of office. Thank you for your partnership and your commitment here.

In exchange for ceding millions of acres of homelands, tribes reserved the right to continue self-governance and to exist as distinct people on our own lands. This is why the first priority we must request today is legislation to protect our homelands, lands that are necessary for economic development, cultural protection, natural resources management, housing, education and tribal infrastructure. Since 2009, this Committee has held numerous hearings, favorably passed legislation in each of the past Congresses which affirms the original intent of the Indian Reorganization Act and would allow the Secretary of Interior to take lands into trust for

all tribes. We ask this Committee to take swift action to introduce and pass *Carcieri* fix legislation.

In modernizing the trust relationship, we must first have certainty over our lands. Indian lands and natural resources are a primary source of economic activity for our tribal communities. But the Federal trust resource management system is antiquated, inefficient and contributes to a lack of investment in many reservation economies.

NCAI points to two pieces of legislation that would immediately spur economic development and trust reform. The first is Senate Bill 209, a bill to amend the Indian Tribal Energy Development and Self-Determination Act of 2004, introduced by the bipartisan team of Senators Barrasso and Tester. This bill will streamline secretarial approval of energy development transactions on Indian lands and give tribes more autonomy over developing our own energy resources. NCAI looks forward to working with this Committee to pass this legislation.

Another trust effort that NCAI supports is legislation that Senator Crapo introduced last session to establish a demonstration project allowing comprehensive land use planning and allocation of trust funding in accordance with tribal priorities. NCAI supports introduction of this legislation in the 114th Congress and recommends removing barriers in the appraisal, probate, land consolation and leasing processes.

It is imperative that Congress work with NCAI, tribal organizations, tribal leaders, to modernize the trust system into a process that recognizes that we are in the best position to make innovative and long-lasting decisions for our communities.

Thank you, Chairman Barrasso, for making infrastructure issues a priority. In order to attract economic development, teachers, law enforcement personnel and capital investments to our tribal lands, we must meet infrastructure needs. The current transportation authorization, MAP-21, which contains tribal programs for construction, maintenance of highways, roads, bridges and transit, is set to expire in May. With an annual budget of \$450 million, this construction and maintenance needs of tribes continues to fall behind and creates unsafe conditions for all citizens who use our roads.

In addition, the Native American Housing Assistance and Self-Determination Act expired in 2013. This bill is an excellent example of how tribes are exercising our right of self-determination to design and implement our own housing programs. Our housing needs are great. Reauthorization of NAHASDA is critical to continue to meet the housing needs of our people.

We also ask this Committee to hold hearings and introduce legislation to address infrastructure needs of tribes in the areas of irrigation, housing, transportation and broadband. My friends here will speak to issues of health care and education, including my tribal member Stacy Bohlen. I call your attention to additional areas in our written testimony including juvenile justice, tribal taxation, public safety, veterans issues and more.

I ask that our written testimony, entitled Promoting Self-Determination, Modernizing the Trust Relationship, be entered into the record of today's hearing.

The CHAIRMAN. Without objection.

Mr. PAYMENT. Funding decisions made by Congress are explicit expressions of the trust relationship between our governments. I respectfully request that the members of this Committee, eight of whom are on the Appropriations Committee, please use your voices to uphold this trust relationship. Your leadership will make a difference for our future generations.

Again, chi-miigwetch on behalf of our NCAI team. I thank you for your service and your commitment to Indian Country.

[The prepared statement of Mr. Cladoosby follows:]

PREPARED STATEMENT OF HON. BRIAN CLADOOSBY, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS (NCAI)

On behalf of the National Congress of American Indians (NCAI), I'd like to thank you for the opportunity to testify at this important hearing as the Committee seeks to set its agenda for the 114th Congress. NCAI is the oldest and largest American Indian organization in the United States. Tribal leaders created NCAI in 1944 as a response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. Since then, NCAI has fought to preserve the treaty rights and sovereign status of tribal governments, while also ensuring that Native people may fully participate in the political system. As the most representative organization of American Indian and Alaska Native tribes, NCAI serves the broad interests of tribal governments across the nation. As this Committee considers its agenda for the 114th Congress, tribal nations call on you to ensure that tribal priorities are represented and honored in the decisions made in this Congress.

Introduction

NCAI appreciates the opportunity to present testimony on the Priorities of Indian Country for the 114th Congress. It is important to note that the priorities that are highlighted were developed by tribal leaders in conjunction with NCAI, and that these priorities are all rooted in the modern trust relationship, self-determination, and sovereignty.

The Constitution, numerous treaties, and laws have created the fundamental relationship between tribal nations and the United States. In return for ceding millions of acres of land that makes the United States what it is today, tribes codified their right of continued self-government, and to exist as distinct peoples on their own lands. Part of that responsibility includes providing basic governmental services in Indian Country. As governments, tribes must deliver a wide range of critical services, such as education, workforce development, public safety, infrastructure, and healthcare to their citizens. Tribes have the capability as governments to oversee their own affairs and, as such, should be in parity with similarly situated governments who provide services to their citizens.

The recommendations below can be accomplished in this session of Congress and further the government-to-government relationship between tribal governments and the Congress. In addition, the recommendations seek to identify areas where administrative barriers can be removed so that tribes can truly create opportunities for success—within our borders and beyond.

Trust Modernization

Indian land and natural resources are a primary source of economic activity for tribal communities, but the federal trust resource management system is antiquated, inefficient, and contributes to the anemic condition of many reservation economies. NCAI urges the Committee to support legislative reforms that will eliminate the burdensome federal red tape stifling economic development in Indian Country, provide tribes with more flexibility and the option of greater control over decisionmaking, and prevent the reoccurrence of the trust mismanagement problems of the past. There is a need for greater efficiency in the trust resource management system, better economic returns on trust resources, and, above all, a much greater voice in how the trust will be administered.

Tribes have been making progress on trust reform over the last five years and want to maintain that momentum. Tribes, working with Congress and the Administration, have seen significant settlements of trust litigation, the development of the Buy-Back program for fractionated lands, passage of the HEARTH Act to promote tribal control over surface leasing of tribal lands, and new leasing regulations that assist greatly on taxation of permanent improvements, among other matters. But

there is much more work to be done. NCAI has identified key areas of the trust system that need improvements to better serve Indian Country:

- *Energy.* The barriers to tribal energy development have been well established by roundtables and hearings conducted by the Department of Energy and this Committee. Barriers include cumbersome bureaucratic processes that are largely attributable to the requirement that tribes and tribal businesses obtain Interior approval for almost every step of energy development on tribal lands, including the approval of business agreements, leases, rights of way, and appraisals. Other major barriers include tribes' and tribal businesses' lack of access to financing and transmission and Application for Permit to Drill fees. For several Congresses, this Committee and the House Subcommittee on Indian and Alaska Native Affairs have considered legislation that would remedy the barriers to tribal energy development in the Act. This legislation, championed by Chairman Barrasso in the Senate and embodied in the 114th Congress as S. 209, would provide tribes with greater control and flexibility to develop their traditional and renewable energy resources. We urge the Committee to pass S. 209 to create careers and capital in Indian Country.
- *Trust modernization legislation.* In the 113th Congress, legislation was introduced that would have taken great steps towards modernizing all trust processes for tribal lands. The bill, introduced by Senator Crapo in the Senate and Representative Simpson in the House, sought to establish a demonstration project allowing comprehensive land use planning and allocation of trust funding in accordance with tribal priorities. We urge that this bill be taken up again, in consultation with Tribes and the Interior Department, and moved to the President's desk in the 114th Congress.
- *Appraisals and Valuation.* Nearly every trust transaction requires an appraisal from the Office of Special Trustee, and this is the most significant bottleneck in the trust system. We need to eliminate unnecessary appraisals and permit tribes to rely on independent certified appraisals.
- *Lease Compliance and Trespass.* Indian tribes have significant problems with lessees who violate lease terms and with outright trespass on Indian lands. We need legislation to improve enforcement mechanisms and authorities. This is explained in more detail in the proposal for Tribal Law and Order Act Reauthorization below.
- *Conflict-of-Interest Issues.* The Department of the Interior (including the Solicitor's Office) oversees a vast range of federal land issues that can come into conflict with their trust responsibility to protect Indian land. We need to create clearer divisions of responsibility that support the identification and resolution of conflicts of interest.
- *Probate.* Probate of individually-owned Indian lands continues to be a bottleneck for many trust transactions, not the least of which is the Buy-Back program. Many problem areas in the probate process can be fixed through minor amendments to the Indian Land Consolidation Act.
- *Self-Determination and Tribal Use of Lands.* The HEARTH Act was a good step forward to empower tribes to manage their own lands. We need to build on this progress for other trust resources, including subsurface lands, and to provide technical assistance to tribes that wish to pursue the HEARTH Act options.
- *Planning and Land Management.* Tribal planning processes tend to silo into grant-driven plans for housing, transportation, water, power and sewage. Tribes need resources to integrate planning for economic development and jobs, education, agriculture and natural resources, and the development of healthy communities. There is a growing emphasis on planning for rural development and business agglomeration. Tribal industries tend to cluster in certain areas, and tribes need assistance with planning to build community infrastructure that fits today's needs.
- *Land Consolidation.* Individual Indian lands are often highly fractionated, and these lands are also very difficult to put to productive use. The Cobell settlement has established a Buy Back Program intended to consolidate these lands for greater use. However, tribes have significant questions and concerns about this centralized federal program. We urge the Committee to continue its oversight of this program and gather more information about the track record so far, and push to make the system effective and allow greater tribal involvement.
- *Federal Responsibilities for Title Maintenance, Technical Assistance, and Prevention of Land Loss.* At its most basic level, the Federal Government has a responsibility to maintain title to federal Indian lands, to report title quickly and

accurately, to include tribal governments in the title management system, and to use that system to prevent land loss. The Department of the Interior has invested some of the Buy Back program funds into updating the title system, and a review of the progress is recommended.

- *Land Restoration.* Most reservations have suffered significant land loss through federal laws and policies, and are in a checkerboard pattern that is difficult to manage. Some tribes have lost all of their land. The Federal Government has a trust responsibility to restore tribal lands for all tribes. In addition to the *Carcieri* Fix discussed below, we urge Congress to continue to support tribal land restoration.
- *Natural Resources and the Environment.* Tribal lands are subject to environmental concerns that affect life in Indian Country. At the same time, federal environmental regulations are often unnecessarily burdensome and overly focused on process rather than substance. We urge this Committee to review existing regulations and statutes and determine where they can be streamlined to empower tribes to manage and co-manage lands effectively and efficiently.
- *Taxation and Services on Tribal Lands.* Indian tribes need to be able to collect taxes and control revenues in Indian Country in order to provide services to their people. See the Tax Issues section below for more background.
- *Access to Capital and Financing Development on Indian Lands.* Accessing capital to finance development on tribal and individual Indian lands remains a significant challenge. It is necessary to learn more about the barriers to investment so solutions can be found for alternative mechanisms to secure debt and equity investments in Indian Country.
- *Updating Regulations, Policies and Procedures.* There are many other areas of the trust system that need to be modernized and updated. Progress has been made at the Department of the Interior on the leasing regulations, and the pending Right-of-Way regulations, but tribes seek continued oversight from this Committee so that progress will continue on trust regulations.

Tribal Land Restoration Under the Indian Reorganization Act

The principal goal of the Indian Reorganization Act (IRA) was to halt and reverse the abrupt decline in the economic, cultural, governmental and social well-being of Indian tribes caused by the disastrous federal policy of “allotment” and sale of reservation lands. Between the years of 1887 and 1934, the U.S. Government took more than 90 million acres from the tribes without compensation, nearly 2/3 of all reservation lands, and sold it to settlers and timber and mining interests. Even worse, many tribes had no land at all, and the IRA is clear in its purpose to acquire land for landless tribes. The IRA is comprehensive legislation for the benefit of tribes that stopped the allotment of tribal lands, provides for the acquisition of new lands, continues the federal trust ownership of tribal lands, encourages economic development, and provides a framework for the reestablishment of tribal government institutions on their own lands.

Section 5 of the IRA, 25 U.S.C. § 465, provides for the recovery of the tribal land base and is integral to the IRA’s overall goals of recovering from the loss of land and reestablishing tribal economic, governmental and cultural life. Section 5 is designed to implement the fundamental principle that all tribes in all circumstances need a tribal homeland that is adequate to support tribal culture and self-determination. As noted by one of the IRA’s principal authors, Congressman Howard of Nebraska:

This Congress, by adopting this bill, can make a partial restitution to the Indians for a whole century of wrongs and of broken faith, and even more important—for this bill looks not to the past but to the future—can release the creative energies of the Indians in order that they may learn to take a normal and natural place in the American community. 78 Cong. Rec. 11731 (1934).

Of the 90 million acres of tribal land lost through the allotment process, only about 8 percent has been reacquired in trust status since the IRA was passed seventy-five years ago—and most were simply unallotted lands that were returned soon after 1934. Since 1934, the Bureau of Indian Affairs has maintained a conservative policy for placing land in trust. Still today, many tribes have no land base and many tribes have insufficient lands to support housing and self-government. Section 5 clearly imposes a continuing active duty on the Secretary of Interior, as the trustee for Indian tribes, to take land into trust for the benefit of tribes until their needs for self-support and self-determination are met.

In contemporary implementation of trust land acquisition, it is important to raise three important points. First, while some controversies exist, what is often mis-

understood is that the vast majority of trust land acquisitions take place in extremely rural areas and are not controversial in any way. Most acquisitions involve home sites of 30 acres or less within reservation boundaries. Trust land acquisition is also necessary for consolidation of fractionated and allotted Indian lands, which most often are grazing, forestry or agricultural lands. Other typical acquisitions include land for Indian housing, health care clinics that serve both Indian and non-Indian communities, and land for Indian schools.

Second, state and local governments have a role in the land to trust process. The Interior regulations provide opportunities for all concerned parties to be heard, and place the burden on tribes to justify the trust land acquisition, particularly in the off-reservation context. It is important to recognize that land issues require case-by-case balancing of the benefits and costs unique to a particular location and community. The regulations cannot be expected to anticipate every situation that might arise, but they do provide an ample forum for local communities and governments to raise opposition to a particular acquisition and they reinforce the Secretary's statutory authority to reject any acquisition. State and local governments have an opportunity to engage in constructive dialogue with tribes on the most sensible and mutually agreeable options for restoring Indian land. In many cases, a "tax loss" of less than \$100 per year is a minimal trade-off for the development of schools, housing, health care clinics, and economic development ventures that will benefit surrounding communities as well as the tribe. Whatever issues state governments may have with the land to trust process, the *Carcieri* decision is not the place to address it. The *Carcieri* decision has created a problem of statutory interpretation that calls for a narrow fix to ensure equitable treatment of all tribes.

Third, the chief problem with the land to trust process is the delays caused by inaction at the Bureau of Indian Affairs. Too often tribes have spent scarce resources to purchase land and prepare a trust application only to have it sit for years or even decades without a response. In addition, during inordinate delays tribes risk losing funding and support for the projects that they have planned for the land, and environmental review documents grow stale. Tribal leaders have encouraged the Bureau of Indian Affairs to establish internal time lines and checklists so that tribes will have a clear idea of when a decision on their application will be rendered. We are seeing some progress at Interior, and we encourage continued support for land to trust acquisition.

Legislative Action Needed to Address Carcieri v. Salazar. In a 2009 decision, the Supreme Court interpreted the definitions section of the IRA and held that the term "now" in the phrase "now under Federal jurisdiction" in the definition of "Indian" limits the Secretary's authority to provide benefits of the IRA to only those Indian tribes "under federal jurisdiction" on June 18, 1934, the date the IRA was enacted.

The *Carcieri* decision is at odds with the federal policy of tribal self-determination. In particular, the decision runs counter to Congress' intent in the 1994 amendments to the IRA. These amendments directed the Department of Interior and all other federal agencies, to provide equal treatment to all Indian tribes regardless of how or when they received federal recognition, and ratified the Department of the Interior procedures under 25 C.F.R. Pt. 83 for determining and publishing the list of federally recognized tribes.

The *Carcieri* decision does not address what it means to be "under federal jurisdiction" in 1934. As the *Carcieri* decision continues to stand unaddressed by Congress, it is engendering costly and protracted litigation on an esoteric and historic legal question that serve no legitimate purpose. The *Carcieri* decision is creating litigation on long settled actions taken by the Department pursuant to the IRA, as well as on the Secretary's ability to make future decisions that are in the best interests of tribes. The decision is already creating significant delays in Department of Interior decisions on land into trust, a process that is already plagued with unwarranted delays.

While the *Carcieri* decision addressed only land in trust, there may be efforts to use the decision to unsettle other important aspects of tribal life under the IRA. The IRA is comprehensive legislation that provides for tribal constitutions and tribal business structures, and serves as a framework for tribal self-government. Future litigation could threaten tribal organizations, contracts and loans, tribal reservations and lands, and provision of services. Ancillary attacks may also come from criminal defendants seeking to avoid federal or tribal jurisdiction, and would negatively affect public safety on reservations across the country.

When the Supreme Court has narrowly interpreted an Act of Congress in a manner that is unfair and not in accordance with its original purposes, Congress should move quickly to amend and clarify the law. NCAI urges Congress to amend the IRA to the effect that all federally recognized tribes are included. We greatly appreciate

your leadership and efforts to make clear that IRA benefits are available to all federally recognized Indian tribes.

Economic Development

For generations, Native peoples have faced harsh economic conditions that are more pronounced than those generated by the Great Recession. Today, while unemployment rates across the country hover around 6 percent, tribal governments and businesses wrestle with unemployment rates that have well-exceeded ten percent and beyond for decades. The lack of employment opportunities in Native communities has had a wide-ranging impact, affecting all aspects of life. While tribal governments have successfully supported job creation both in government and the private sector, ensuring that job growth keeps pace with the growing Native youth population is an ongoing challenge. Considering that Indian Country has one of the youngest populations in the nation, with 42 percent of Native people under the age of 25, workforce development opportunities are of critical importance.

A comprehensive Congressional and multi-agency approach is necessary to address the issues hindering economic success for many tribes. Conditions such as minimal access to capital, poor physical infrastructure, lack of broadband access, and a need for workforce training all combine to contribute to the economic development challenges found in Indian Country. These conditions, along with inadequate funding and programs for tribes have contributed to the chronically high unemployment rates throughout Indian Country. Honoring the trust responsibility and addressing the key economic needs will unleash the economic power of Indian Country. The results will be beneficial for not only our tribal nations but for the United States as well. Tribal nations and the Federal Government must work together to fulfill the promises of the past to secure prosperity for future generations.

This Congress should focus on policies which bring economic opportunities to Indian Country and bring parity between tribal, state, and local governments. The empowerment of tribal efforts to manage and control their own affairs requires the Federal Government to grant tribes the flexibility needed to administer federal programs while removing barriers and bureaucratic hurdles and undermine tribal self-determination and discourage private investment in tribal communities. NCAI recommends that Congress act quickly on legislation to improve jobs and self-governance in Indian Country while allowing tribes the flexibility to design and implement these programs in the ways that best meet the needs of their members.

Permanently authorize the Indian Employment Training and Related Services Demonstration Act of 1992 (P.L. 102-477). The Indian Employment, Training, and Related Services Demonstration Act “477” program supports self-determination by permitting tribes to design their own programs and services, build tribal capacity, and use federal funding more effectively. The statute allows tribes to consolidate funding streams from the Departments of the Interior, Health and Human Services, and Labor into an integrated employment, supportive services, and training program with a single budget and single reporting system. This law has proven to be an exceptional success in making existing federal programming more effective in meeting the employment, training, education and welfare reform needs of Tribes and Tribal Organizations.

The 477 program maximizes federal dollars for tribal governments by fostering agency cooperation while reducing administrative burdens. This flexibility allows the creation of programs that culturally meet the needs of tribal citizens and eliminate administrative duplication.

In the last Congress, this Committee heard testimony on S. 1574 a bill introduced by Senator Murkowski. That bill would have consolidated and streamlined federal funding for tribal employment and training and related service programs in Indian Country. The legislation would also have updated and improved upon existing law which has allowed tribes to integrate their employment related funding and maximum program efficiency for the past 20 years. In the House of Representatives, Congressman Young (R-AK) has already introduced legislation that is identical to that introduced by Senator Murkowski in the 113th Congress.

NCAI recommends the Committee on Indian Affairs take up this legislation for passage in this session of Congress.

Enact Self-Governance Legislation. Self-governance allows tribes, as sovereign nations, to exercise their right to be self-governing and to take program funds and manage them in ways that best fit the needs of their citizens and tribal communities. It places the Federal Government’s Indian Country programs firmly in the hands of the people who are served by them, enhancing and empowering tribal governments and their institutions, all while reducing the federal bureaucracy. As a tribally-driven initiative created through Congressional legislation, it allows tribal governments to negotiate annual appropriated funding and to assume management

and control of programs, services, functions, and activities—or portions thereof—that were previously managed by the Federal Government.

As of 2014, there are 254 Self-Governance Tribes within the Department of the Interior—Bureau of Indian Affairs and 341 Self-Governance Tribes within the Department of Health and Human Services—Indian Health Service. Over the last 25 years, the Self-Governance tribal leadership and representatives have held ongoing meetings with the Administration and Congress regarding ways to improve and advance self-governance and have made recommendations to update and enhance the current legislation.

NCAI recommends that Congress enact Title IV Self-Governance Amendments. Amending Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA) has been a top legislative priority for Self-Governance tribes for more than a decade. Over the past 35 years, the ISDEAA has been one of the most successful mechanisms allowing tribes to develop the capacity for government-building activities. However, Title IV of the ISDEAA, the Self-Governance program within the Department of the Interior, has serious gaps and problems. Therefore, tribal leaders continue to advance the vision of the ISDEAA by working to amend Title IV of the ISDEAA to create consistency and administrative efficiency for Self-Governance tribes between Title IV Self-Governance in the DOI and Title V Self-Governance in the DHHS.

In the last Congress, the Committee on Indian Affairs favorably reported S. 919, the Department of the Interior Tribal Self-Governance Act of 2013 out of the Committee. The Department of the Interior has also expressed strong support for passage of this legislation which would significantly advance Congress's long-standing policy of promoting tribal self-governance. NCAI recommends swift introduction and action on this legislation in this session of Congress.

In addition, NCAI urges both Congress and the Administration to look at expanding self-governance programs outside of the Department of the Interior and the Indian Health Service. Demonstration projects, consistent with fundamental self-governance tenants, could be developed where agencies have a high degree of tribal programs and tribes have the capacity for program administration.

Tax Initiatives

NCAI greatly appreciates the Committee's support in collaborating with the Finance Committee to further tax initiatives important to Indian Country. NCAI encourages this Committee to ensure that tribes are included in any broader tax reform efforts taken up by Congress in this Session. Tribal governments should be included in the Tax Code in a manner that encourages growth and acknowledges the sovereign taxing authority of tribal governments. Federal budget difficulties have underscored the need for development of tribal taxing authority to provide government revenue independent of Federal appropriations. Tribal governments are increasingly using their taxing authority to support tribal Government programs and infrastructure. NCAI has the following recommendations, and urges consultation with tribal leaders who are becoming increasingly engaged with tax matters in Indian Country:

Make Tax "Extender" Incentives Permanent—Support legislation to incentivize business development on tribal lands. NCAI urges Congress to consider the urgent and continuing need for economic development on Indian reservations in the context of the Indian Employment Tax Credit (IRC Section 45A), the Accelerated Depreciation Provision for on-reservation business infrastructure (IRC Section 168(j)), and the Indian Coal Production Tax Credit (IRS Section 45) which expired on December 31, 2014, and should be reenacted as soon as possible and on a permanent basis. In addition, we would like to bring your attention to proposals to modify the New Markets Tax Credit and the Low-Income Housing Tax Credit to make them more accessible to Indian reservation-based economic and housing development projects.

The Employment Credit provides private businesses with an incentive for employing Indian tribal members in reservation-based business operations. The Accelerated Depreciation Provision provides businesses with the opportunity to take accelerated depreciation deductions on business property located on Indian reservations. NCAI recommends that Congress make both tax incentives permanent so that employers can rely on the incentives when planning to locate a facility in Indian Country. The lack of certainty in the future of these tax provisions undermines their ability to attract larger, long-term investments.

NCAI also supports the proposal in the Department of Treasury FY 2015 Budget to update the Indian Employment Credit (Green Book pp. 13–15). The Indian Employment Credit is structured as an incremental credit applicable to current year qualified wages and health insurance costs in excess of such costs paid in the base year (1993, the year of original enactment). Updating the base year would achieve

two goals: (1) simplicity by eliminating the need for businesses to maintain tax records long beyond normal requirements, and (2) restoration of the original incremental design of the credit. However, we note that in certain instances, this would result in a lesser amount of tax credit being available to certain businesses with on-reservation operations. We recommend use of the tax revenue savings inherent in this change to extend the credit permanently and to make the New Markets Tax Credit more accessible to tribal projects, as proposed below.

We also urge extension of a tax provision of importance to tribes in coal-rich areas, the Indian Coal Production Tax Credit (ICPTC). The ICPTC was enacted for a temporary period in the Energy Tax Incentives Act of 2005 (see IRC Section 45(d)(10) and (e)(10)). The credit was later extended and expired on December 31, 2014. There is a compelling need for the ICPTC. Tribes with coal reserves rely on the jobs and revenues generated by mining operations to improve the well-being of their citizens as they strive for economic self-sufficiency. Unfortunately, on-reservation mining operations are disadvantaged by bureaucratic obstacles, additional federal regulatory requirements, and the higher financial costs associated with mining on Indian lands, which make it difficult to compete with off-reservation operations. Since 2006, the ICPTC has helped offset those disadvantages and level the playing field for tribal mining operations.

The New Markets Tax Credit (Section 45D) was established in 2000 to spur new or increased investments in operating businesses and real estate projects located in low income communities. The program has traditionally been a successful tool for attracting private capital to Indian Country. However, neither tribal organizations nor Indian reservation-focused applicants received a single dollar in the 2013 or 2014 rounds of NMTC Funding. NCAI urges Congress to address this problem by creating a set-aside for Indian reservation-focused applicants and by amending Section 45D(i)(6) to direct Treasury to prescribe regulations to ensure that Indian reservations (as well as nonmetropolitan areas) receive an allocation of qualified equity investments.

Similarly, the Low-Income Housing Tax Credit (LIHTC) is too frequently unavailable to tribes. Indian tribes have great numbers of low-income tribal members and long waiting lists of members who need housing. Unfortunately, the LIHTC allocations are provided only to state governments, who most frequently use criteria that benefit only urban areas. We urge that a set-aside be created for tribal governments.

Tax Parity for Tribal Governments. Members of Congress and Indian tribes have been identifying a significant number of provisions where tribes are unable to use the Tax Code in the same manner as state and local governments. NCAI urges the Committee to take action in these areas to ensure that tribal governments achieve tax parity with state and local governments.

- *Tribal government tax-exempt bonds.* Currently, tribes may only use tax-exempt bonds for “essential government functions.” Unfortunately the IRS has interpreted this in a way to exclude tribal economic development as a governmental function, while state and local governments frequently use tax exempt financing for revitalization projects. This unnecessarily prevents tribes from securing the funding needed to revitalize their communities. Tax parity is essential for tribal governments to freely implement important initiatives in Indian Country.
- *Tribal government pension plans.* Tribal governments currently must provide both government and private ERISA pension plans to their employees. This largely depends on whether the employee works for the tribal government or for a tribal enterprise. This requirement is both costly and cumbersome. Tribal governments must be able to operate a single, comprehensive, government pension program for all of their employees.
- *Tribal foundations and charities.* Tribally-created foundations and charities do not enjoy the same tax-exempt status that state-created foundations and charities enjoy. This creates an uncertain atmosphere for potential benefactors seeking to maintain their tax-exempt status. In order for tribal foundations and charities to thrive, it is necessary for benefactors to feel unencumbered to make contributions without potential tax penalties.
- *Tribal child support enforcement agencies.* Tribal child support enforcement agencies need authority to access parent locator services, which are currently only available to state and local governments but not tribes. Also, the tax code should be amended to allow tribal child support enforcement agencies to enforce orders for support through the authority to withhold past due child support payment from the federal income tax returns of parents with past due obligations.

- *Tribal access to Clean Renewable Energy Bonds (CREBs).* Tribes and entities wholly owned or controlled by tribes, should be able to utilize CREBs for energy development projects. Legislation should also create a set aside for tribal projects under the CREBs provision.
- *Adoption Credit.* Recognize American Indian/Alaska Native tribal governments for purposes of determining under the Adoption Credit whether a child has special needs. Adoption is widespread throughout Indian Country. Tribal courts need the ability to make a determination of special needs in order to grant tax credits to adoptive parents on par with state courts.
- *Tax credits granted to doctors employed by Indian Health Service facilities.* Tax credits are available to doctors employed in other areas of the public sector, but are unavailable to those employed by the Indian Health Service. This would create an incentive for practitioners to bring their skills to Indian Country, where they are greatly needed.

Inclusion of American Indian/Alaska Native tribal governments in any forthcoming tax reform bill. The last national tax reform occurred during the 1980s. As such, any tax reform will most likely create a Tax Code which will govern the United States, its territories, and Indian tribal governments for decades to come. For this reason, it is important that tribal governments be included in any tax reform efforts as a matter of fairness. Reliable funding sources have been few and far between for every tribal government service for decades. NCAI recommends further consultation with tribes to develop an initiative that will promote tribal government tax authority and promote the ability of tribal governments to sustain programs and services in a more self-sufficient manner.

Include Tribal Governments in the Marketplace Fairness Act. NCAI seeks the Committee's support of the Marketplace Fairness Act and requests the inclusion of tribal governments in any legislation that regulates the collection of sales taxes or implements the State Streamlined Sales and Use Tax Agreement. The Senate included tribes within last year's version of S. 743, and we are optimistic the legislation will be considered again this year.

In sum, Indian tribal governments have authority to, and increasingly utilize, their authority to collect sales taxes on Indian reservations. Tribal governments use these tax revenues to provide services on their reservations, such as law enforcement, education, health care and all the basic roads and infrastructure needs.

In the Marketplace Fairness Act, Congress will be exercising its Commerce Clause authority, which includes the authority to regulate Commerce "with foreign Nations, and among the several States, and with the Indian tribes." Like states, tribal governments are subject to confusing federal common law decisions on taxing jurisdiction, and can benefit from simplified rules on remote sales taxes and the sourcing of tax jurisdiction.

We urge that any legislation passed by Congress also protect the tax status of Indian tribal governments by allowing Indian tribes to participate in the same manner as states. NCAI has worked with states and the National Conference of State Legislatures, and Indian tribes were included in prior legislation, in S. 34 from the 110th Congress and in H.R. 5660 from the 111th. We believe that the provisions incorporated in these older bills are better model for including tribes.

Inclusion of tribes is extremely important, because the legislation will create the sales tax collection system for the next century, and sales taxes are a critical source of government revenue for Indian tribes. State governments rely on federal funding for approximately 25 percent of their budgets, while tribal governments rely on federal funding for more than 60 percent of their budgets. Most often tribal governments are supplying services that the Federal Government is under treaty and trust obligations to provide. At a minimum, Congress should exercise its authority in a way that supports and protects the ability of tribal governments to raise tax revenues on their own. If a new national system of sales tax collection is to be created with Congressional approval, basic fairness means that tribal governments should have the same opportunities to collect taxes as other jurisdictions within the federal system. We urge Congress to include tribal governments within the Marketplace Fairness Act.

Tribal Infrastructure

Tribal infrastructure needs must be addressed in order for tribes to not only meet the needs of their members, but to attract economic development opportunities to their communities. In this session of Congress, members of this Committee will be asked to take action on transportation and housing reauthorizations that will have a great impact on the current housing and transportation programs operated by tribal governments.

Transportation

Tribal transportation programs are critical to ensuring that tribal governments can provide for the economic and social well-being of their tribal members and members of the surrounding communities. Surface transportation in Indian Country involves thousands of miles of roads, bridges, and highways. According to the latest National Tribal Transportation Facility Inventory, there are approximately 160,000 miles of roads and trails in Indian Country owned and maintained by tribes, the Bureau of Indian Affairs, states, and counties. Of those, Indian tribes own and maintain 13,650 miles of roads and trails of which only 1,000 (or 7.3 percent) are paved, with another 12,650 miles consisting of gravel, earth, or primitive materials. Of the 29,400 miles owned and maintained by the Bureau of Indian Affairs, 75 percent of them are graveled, earth, or primitive. When combined, the roads owned and maintained by Indian tribes and the Bureau of Indian Affairs are among the most underdeveloped and unsafe road networks in the nation, even though they are the primary means of access to American Indian and Alaska Native communities by Native and non-Native residents and visitors alike.

Therefore, safety issues continue to be among the biggest challenges for tribal nations because many tribal communities are vulnerable due to unsafe and often inaccessible roads, bridges, and ferries. According to the Federal Highway Administration, "American Indians have the highest rates of pedestrian injury and death per capita of any racial or ethnic group in the United States." Over the past 25 years, 5,962 fatal motor vehicle crashes occurred on Indian reservation roads, with 7,093 lives lost. While the number of fatal crashes in the nation declined 2.2 percent during this time period, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5 percent. Adult motor vehicle-related death rates for American Indians/Alaska Natives are more than twice that of the general population. These statistics are alarming and call for major changes in federal transportation safety programs serving Indian Country.

The current cost to construct for Bureau of Indian Affairs owned roads in Indian Country is approximately \$81.6 million. Indian Country will require a substantial commitment of federal resources in keeping with the trust responsibility to meet maintenance and transportation needs for tribal governments and citizens. In addition, another surface transportation program that has a growing shortfall is the Bureau of Indian Affairs Road Maintenance Program. The lack of investment in this infrastructure over the past decade has compromised highway safety in Indian Country, dramatically shortened the useful life of the Bureau of Indian Affairs transportation system, and tribal roads and bridges and undermined tribal economic development initiatives in Indian Country.

Bureau of Indian Affairs Road Maintenance Program. Although the majority of transportation programs are authorized and funded through the Department of Transportation, there is one critical tribal transportation program located within the Bureau of Indian Affairs. This program, the BIA Road Maintenance program is responsible for maintaining approximately 29,400 miles for roads in Indian Country including 900 bridges. The funding for this program has steadily declined for several fiscal year cycles and is currently funded at \$26 million for FY 2015.

The current deferred maintenance for BIA roads is over \$289 million and rising. At this current level of funding it would take more than a decade to clear the current maintenance backlog on these roads, not accounting for future maintenance needs. These staggering amounts of deferred maintenance on BIA roads directly impacts tribes. The safety of our youth, elders, tribal citizens, and non-Native neighbors depend on the adequacy of these roads.

Reauthorization of MAP-21. The Moving Ahead for Progress in the 21st Century (MAP-21) is the major transportation authorization that administers highways, bridges, transits, and safety programs within the Department of Transportation. Particularly for tribes, MAP-21 comprises the Tribal Transportation Program (TTP) and Public Transportation on Indian Reservations Section 5311 (c) (also known as the Tribal Transit Program). Currently tribes receive \$450 million for TTP for the construction and maintenance of highways, roads, and bridges; and \$30 million for Public Transportation on Indian Reservations, which provides funding for development and maintenance of transit systems that serve tribal communities.

NCAI requests this Committee to hold a hearing on tribal transportation priorities in anticipation of the reauthorization of MAP-21 which expires in May of 2015. This hearing could be used to highlight the importance of tribal transportation programs and how those programs can be improved as Congress considers reauthorization of the broader transportation reauthorization.

Housing

Housing is a core necessity for tribal communities. While tribes have made great strides toward improving housing conditions in their communities, the need for adequate, affordable housing for low-income Indian people persists. Native Americans still face some of the worst housing and living conditions in the United States. According to the U.S. Census Bureau's 2006–2010 American Community Survey, there are an approximate 142,000 housing units in Indian Country, and those homes frequently lack utilities and basic infrastructure. The survey shows that approximately 8.6 percent lack complete plumbing facilities, 7.5 percent lack kitchen facilities, and 18.9 percent lack telephone service. Close to 30 percent of Indian homes rely on wood for their source of heat.

These staggering statistics have long been challenges facing Indian tribes, and without appropriate policies and proper government-to-government planning to address these challenges, Indian Country will continue to fall behind. Seventy percent of the existing housing stock in Indian Country is in need of upgrades and repairs, many of them extensive. The longer it takes to address these significant housing needs in Indian Country, the more expensive remedies will be in the long-term.

Tribal programs under the Native American Housing and Self-Determination Act have been successful in allowing tribes the self-determination necessary to provide effective programs for tribal citizens. NAHASDA effectively replaced the various Indian housing programs under the 1937 Housing Act and consolidated federal housing funds through direct block grants to the tribes and their housing authorities. Tribes are now exercising their right of self-determination to design and implement their own housing and other community development infrastructure programs. NAHASDA has resulted in tens of thousands more housing units being constructed as well as increased tribal capacity to address related infrastructure and economic development challenges. Since the enactment of NAHASDA in 1996, tribal housing programs have been making great strides for housing and community development by using sustainable building practices and leveraging their NAHASDA and other federal funding. Today there are close to 500 Tribally Designated Housing Entities in Indian Country.

Reauthorization of NAHASDA. The current NAHASDA authorization expired in September of 2013. NCAI recommends the reauthorization of NAHASDA and its programs and activities. NAHASDA's programs are key to meeting the housing needs of Indian Country. In the last session of Congress, NAHASDA legislation passed the House but stalled in the last days of the Congress. NCAI recommends that this Committee work on legislation to reauthorize NAHASDA to bring certainty to housing development and programs throughout Indian Country.

Telecommunications

As the United States progresses with the deployment and adoption of 21st Century technologies, mechanisms implemented must take into consideration the unique circumstances that exist on tribal lands. As new policy initiatives spur robust, high-speed broadband services throughout the country, adequate resources and funding for these efforts will need to keep pace. Policies focused on the deployment and adoption of these new technologies provides renewed opportunities for tribes to exert self-determinations and advance capacity building. Funding for federal commitments to consult with tribal nations and access to public media systems continue to be essential functions for bridging the Digital Divide in Indian Country.

The primary law governing our telecom sector is the 1934 Communications Act—which was last amended in 1996 due to rapid advances in wireless and cable technologies. The 1996 amendments created the Universal Service Fund to meet the goals of providing affordable and quality telecom services across the country—most notably to rural areas, and for low-income individuals. However, the law passed without consideration to the general absence of these facilities and services on tribal lands.

In the 2000 U.S. Census, it was estimated that less than ten percent of tribal lands had access to the Internet—and that just 68 percent of tribal households had access to basic telephone service. With these startling statistics, tribes united to advocate for change.

NCAI urges the Committee to hold an oversight hearing on connectivity in Indian Country and make specific recommendations below to improve Administration efforts in telecommunications.

Establish the Office of Native Affairs and Policy as an independent office at the FCC. The FCC has already established a procedural framework for stand-alone offices, such as the Office of General Counsel and Office of Engineering and Technology. These offices were created to directly advise the FCC Chair and Commissioners as specific subject matter experts. When the FCC Office of Native Affairs

was established (FCC–ONAP), it was placed under the Intergovernmental Affairs Bureau with the intent to report to, and work directly with the FCC Chair and across the Bureaus and Offices at the Commission. Elevating FCC–ONAP to operate as a stand-alone office will ensure that it has the unfettered access needed to address tribal concerns and advise the FCC Chair, Commissioners, and the Commission’s Bureaus and Offices on all tribal matters.

Dedicated Funding for FCC–ONAP. NCAI urges continuation of a dedicated, annual budget for FCC–ONAP to ensure the FCC’s commitment to consult with tribal nations is preserved and exercised. FCC–ONAP is charged with consulting with tribal nations on behalf of the entire agency, and working with FCC Commissioners, Bureaus, and Offices for the development and implementation of policies benefiting tribal nations. The passage of the 2014 Omnibus Appropriations bill was the first time Congress appropriated funds to the FCC specifically for consultation purposes with tribal nations. We urge Congress to continue funding of no less than \$300,000 for consultation purposes at the FCC through its Office of Native Affairs and Policy.

ConnectED. In June 2013, President Obama announced the ConnectED initiative to connect 99 percent of America’s students to high-speed broadband and services by 2018. Shortly after this announcement, the Federal Communications Commission initiated rulemakings to modernize its \$2 billion Schools and Libraries program (E-rate)—the Federal Government’s largest educational technology program. In the Final Order adopted by the FCC in August 2014, many tribal concerns were addressed, such as the need for training on various programmatic aspects of the E-rate program and the need for a Tribal Liaison at the Universal Service Administrative Company.

However, the Final Order missed taking action on several key recommendations to increase tribal participation in the program. Additionally, the Final Order focused on prioritizing funding to support Wi-Fi deployment, which does not address the critical need for new hardware, and in many cases first-time, connections to the nation’s schools and libraries.

Amend the Library Services and Technology Act. NCAI seeks an amendment to the Library Services and Technology Act to recognize tribal authority to designate what constitutes a “library” on tribal lands.

Tribal “libraries” are usually located in multi-service buildings that provide programs and services to tribal members, which may not constitute a formal ‘stand-alone’ library or necessarily be attached to a primary or secondary education institution. When the 1996 Telecommunications Act passed it recognized the Library Services and Construction Act, which provided tribes the ability to designate their own libraries. However, just months after passage of the ‘96 Telecom Act, the LSCA was rescinded and replaced by the Library Services and Technology Act (LSTA). Under the LSTA tribes must receive approval from a State Library Administrative Agency to designate a “library” as eligible for receiving funds for various library functions—including eligibility for participation in the E-rate program. NCAI requests legislation to amend the LSTA, or remove the requirement that tribal libraries be eligible for LSTA under state programs and instead restore them to being treated as agencies of sovereign tribal nations.

Public Safety

Congress has taken historic steps in the past several years to address public safety issues in Indian Country. With the passage of the Tribal Law and Order Act in 2010, the Violence Against Women Reauthorization Act of 2013, and the Alaska Safe Families and Villages Act of 2013, Congress has begun to address some of the structural barriers to public safety in tribal communities. For the promise of these laws to be fully realized, however, they must be fully implemented at the agency level and sufficient resources must be allocated through appropriations.

In 2013, the bi-partisan Indian Law and Order Commission released its report to Congress and the President concluding that “[h]ow we choose to deal with the current public safety crisis in Native America—a crisis largely of the Federal Government’s own making over more than a century of failed laws and policies—can set our generation apart from the legacy that remains one of [the] great unfinished challenges of the Civil Rights Movement. Lives are at stake, and there is no time to waste.” The public safety problems that continue to plague tribal communities are the result of decades of gross underfunding for tribal criminal justice systems; a uniquely complex jurisdictional scheme; and the historic, abject failure by the Federal Government to fulfill its public safety obligations on American Indian and Alaska Native lands. Residents and visitors on tribal lands deserve the safety and security that is taken for granted outside of Indian Country.

Reauthorization of the Tribal Law and Order Act; with Juvenile Justice, Technical Amendments and a Joint Effort to Address the Crisis in Criminal Justice Funding.

NCAI asks that the Senate Committee prioritize the reauthorization of the Tribal Law and Order Act of 2010 (TLOA). The TLOA was a strong and bi-partisan step forward by Congress to address tribal justice systems. The Act authorized funding for a number of programs to tribal governments to improve public safety and the administration of criminal justice in Indian Country. All authorized funding under the TLOA is expiring this year. It is important that Congress not only reauthorize this funding, but also appropriate the crisis-level funding needed for criminal justice in Indian Country. There is very strong, but as yet unrealized, support within Congress, and combining additional appropriations with the reauthorization will be well-received and strongly supported by tribal leaders.

The reauthorization of the TLOA may also serve as a vehicle for improvements to the Juvenile Justice system in Indian Country, which we describe in the next section. Chairman Barrasso and Vice-Chair Tester have both identified youth justice as a priority, and Indian Country fully agrees.

The TLOA was also a vehicle for a series of important technical improvements to the federal criminal justice laws in Indian Country. Tribal justice systems now have nearly five years of experience with implementing the law, and that implementation has led to proposals to continue to make technical amendments to improve the law.

Bureau of Prisons Tribal Prisoner Pilot Program. Specifically, we ask that the Committee reauthorize and make the Bureau of Prisons Tribal Prisoner Pilot program, which expired on November 24, 2014, permanent. The Pilot Program created the option to send highly violent offenders to federal corrections facilities. Many tribes do not have the resources or personnel to adequately and safely house these types of offenders. The federal system also offers greater access to treatment, rehabilitation, and reentry programs.

At the time of enactment, NCAI believed that the program would be used sparingly for only the most violent offenders. However, there were concerns about costs and the program was limited to a pilot for four years. In that short time the program is only beginning to work, but it works extremely well. Tribal governments must develop new criminal codes, train staff, and then it took time to navigate the federal bureaucracy to use the program. Three tribes have only fairly recently transferred a total of six prisoners to federal prisons, but this is an extraordinarily useful tool for a big problem—the small number of very violent offenders. Providing tribes this flexibility will allow tribal governments to concentrate their resources on other pressing criminal justice and public safety needs. The Federal Bureau of Prisons has supported the continuance of this program in its report to Congress as required by the Tribal Law and Order Act.

Trespass. NCAI has also received increasing technical feedback from tribes on criminal justice concerns. As an example, we recommend that Congress consider updating the 18 U.S.C. 1165 regarding trespass. Trespass on an Indian reservation is treated as a misdemeanor under federal law, which may be appropriate for minor hunting and fishing trespasses. However, Indian reservations are experiencing increasing problems with serious criminal trespass and a lack of deterrence. First, tribes are unable to address problems with sexual assault and stalking offenders who are subject to civil protection or exclusionary orders, but continue to return to the reservation to harass victims. Violating a tribal protection or exclusionary order should be subject to more serious federal penalties. Second, tribes also have difficulties with former lease tenants who overstay agricultural and residential leases for many years and refuse to leave or pay rent. Third, tribes are also experiencing problems with timber theft, repeated poaching, illegal mining and illegal marijuana operations. These are serious property crimes that are infrequently enforced by the Federal Government because the penalty is a misdemeanor. The goal would be to create an effective federal deterrent that could be included in initial notices or orders. In short, the Indian Country trespass crime should be updated to increase penalties and deterrence for those who cause serious threats to persons and loss of property.

Juvenile Justice. The Indian Law and Order Commission's "A Roadmap for Making Native America Safer" report discussed the disturbing reality that American Indian/Alaska Native youth face disproportionate exposure to violence and poverty. Many of these communities lack access to funding for mental health and other support resources to offset the impacts of these conditions. As a result, Native children are particularly likely to enter the juvenile justice system. Removing these children from their families, tribal communities, and culture increases the likelihood that they will become habitual offenders. At present, the majority of youth in federal detention centers are American Indian/Alaska Native. American Indian/Alaska Native youth also make up a disproportionate number of the population in state juvenile justice systems, when compared with their non-Indian counterparts.

When faced with these realities, tribes are often unable to participate in ensuring the health and welfare of their juvenile populations. In most cases, tribes are better situated to offer culturally appropriate alternatives to incarceration, however, many tribes lack the ability to financially support the infrastructure needed to deter and rehabilitate juvenile offenders, and rely solely on federal appropriations. The immediate costs of arming Native juvenile justice systems with the tools they need to implement culturally sensitive juvenile justice solutions pale in comparison with the long term costs of incarcerating habitual juvenile offenders into adulthood. NCAI has the following recommendations for the Committee:

Funding for American Indian/Alaska Native Juvenile Justice Programs. The Tribal Law and Order Commission's 2013 Report on juvenile justice (TLOC Report) and the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence 2014 Report (AG Report) recommend that, rather than incarcerate Native juvenile offenders, tribes implement culturally-appropriate rehabilitation measures. Incarceration of Native juvenile offenders only exacerbates an already precarious situation. According to the TLOC Report, when placed in juvenile detention facilities, youths are placed in "generally unsafe, abusive, ineffective, and horribly expensive" situations that tend to push them further into a life of crime. It is therefore necessary for tribal juvenile justice systems to be able to fashion appropriate alternatives aimed at rehabilitation and treatment.

The TLOC Report recommends that resources be more effectively deployed to Indian Country in order to achieve parity between Native and non-Indian justice systems. The Juvenile Justice and Delinquency Prevention Act of 2002 (JJDP), which is up for reauthorization, provides funding for juvenile justice prevention and treatment programs in Indian Country. Currently, the aggregate amount of funding provided by the JJDP for all of Indian Country equals the amount apportioned to one state. This is unacceptable in light of the challenges facing Indian Country in implementing and sustaining juvenile justice systems. Tribes must be allocated and appropriated at least ten percent of the funding available under the JJDP in order to provide their communities with adequate juvenile justice solutions. Both the TLOC Report and the AG Report recommend that Congress authorize additional and adequate funding for tribal juvenile justice programs in the form of block grants and self-governance compacts to support the restructuring and maintenance of tribal juvenile justice systems.

Tribal Juvenile Data collection. The TLOC Report highlights the difficulties Indian Country faces in keeping track of its juvenile offenders. In some cases, juvenile offenders disappear completely from a tribe's radar once they are in the system. At the state level, data collection is either inadequate or nonexistent. Both the TLOC Report and the AG Report emphasize that proper data collection is essential if tribes are to attempt early intervention with at-risk youth. A number of tribes have instituted juvenile tracking programs, in which they have collected data from a variety of sources to create a comprehensive picture of each of the youths within their tribal communities. From this data, tribes have been able to foresee when family situations require preventative action, and then supply the resources necessary to maintain the youth's wellbeing. This kind of data collection is essential for tribes to maintain healthy youth communities, but many tribes lack the resources necessary to institute these kinds of comprehensive programs. Appropriated funding is therefore necessary for the long term health of these tribal communities, and will result in an overall savings in both social and fiscal costs.

Preventative Family Services. The AG Report states that Native juvenile offenders are exposed to violence at extremely high rates. This exposure negatively impacts neurological development, physical and mental health, and school performance, and increases substance abuse and delinquent behavior. Many of these issues could be resolved through early preventative services, such as providing mental health and substance abuse counseling for parents, screening youth for trauma, or providing after school programs and youth mentorship. Tribes often lack the resources to initiate and facilitate these programs. It is therefore necessary for Congress to appropriate funding essential to the creation and implementation of preventative tribal intervention programs.

Request for Oversight Hearing on Nationwide Implementation of Tribal Domestic Violence Jurisdiction. NCAI respectfully requests the Committee hold an oversight hearing on the implementation of 25 U.S.C. § 1304, known as Special Domestic Violence Criminal Jurisdiction (SDVCJ), in March of this year. The restoration of tribal jurisdiction over non-Indian domestic violence offenders marked one of the most important and most highly visible provisions of the reauthorization of the Violence Against Women Act nearly two years ago. On March 7, 2015 all Indian tribes will become generally eligible to implement the new law without prior approval from the

Attorney General. That month would be an opportune time for the Committee to hear about implementation from the three tribes in the Pilot.

Under the Pilot Program, three tribes were approved by the Attorney General to exercise SDVCJ on an accelerated basis on February 20, 2014. The three tribes include the Confederated Tribes of the Umatilla Indian Reservation (Oregon), the Pascua Yaqui Tribe (Arizona), and the Tulalip Tribes (Washington). Over the past two years, 41 tribes have worked in collaboration to prepare for implementation as part of the Intertribal Technical-Assistance Working Group. It is expected that quite a few more tribes will begin implementation in the near future.

One goal in requesting this oversight hearing is to educate more tribal leaders about the process of implementation. The pilot project tribes have done tremendous work in developing tribal codes and putting the required criminal procedural safeguards into place. They have accumulated a lot of lessons learned, and a Senate hearing would be an excellent place to share this knowledge.

In addition, this issue garnered a great deal of attention in Congress, and we feel a responsibility to keep Congress informed about progress with the new law. The pilot project has illustrated the necessity of criminal jurisdiction over non-Indians on tribal lands in order to ensure public safety. The three pilot tribes are already making multiple arrests of non-Indian domestic violence and dating violence offenders and have a great deal of data and information to share.

For example, there have been multiple related assaults and incidents involving children, which the tribes cannot prosecute under their current authority. This data is especially relevant given the Attorney General's Task Force on Children Exposed to Violence recent recommendations. In addition, it is notable how many of these SDVCJ defendants have arrest warrants in other jurisdictions and have attempted to exploit jurisdictional gaps by "hiding out" in Indian country. The pilot project has also illustrated the need for access to federal criminal databases and for clarification of authority to detain criminal offenders for federal or state prosecution. Finally, implementation has highlighted the tremendous need for increased resources for tribal justice systems.

The SDVCJ pilot project has placed these issues in spectacularly focused detail. NCAI believes that the Committee will be highly impressed with the results of any hearing that includes representatives of the three pilot project tribes.

Victims of Crime Act (VOCA) Funding. Congress created the Crime Victims Fund through the Victims of Crime Act in 1984. It is based on a simple idea: Money the government collects from those who commit crimes should be used to help those victimized by crime. Each year, criminal fines and penalties collected in federal court are deposited into the Crime Victims Fund. The Department of Justice disburses money from this Fund to States and other entities to support victim compensation and assistance programs. It is important to note that the Fund receives no tax dollars. Unfortunately, since its inception, Indian tribes have largely been shut out of the critical funds disbursed from the Crime Victims Fund.

Since fiscal year 1999, Congress has capped the amount of money disbursed from the Crime Victims Fund. The cap on money disbursed from the Fund has remained low, even as the amount of money going into the Fund has risen dramatically. For example, from fiscal year 2009 through fiscal year 2013, the Crime Victims Fund collected an average of \$2 billion each year, but disbursed only an average of \$700 million per year.

Last year, Congress raised the cap for fiscal year 2015 to \$2.3 billion. Unfortunately, the vast majority of that funding is distributed via a formula grant to states and territories and is not reaching tribes and tribal communities. NCAI Resolution calls for 10 percent of the distributions from the Crime Victims Fund to be directed to tribal governments. This was also the recommendation of the Attorney General's Task Force on American Indian and Alaska Native Children Exposed to Violence. We understand that there is an effort underway in the Senate to make the increased distributions from the Crime Victims Fund permanent, and we request that the Senate Committee on Indian Affairs work with the your colleagues to ensure that Indian tribes are appropriately included in distributions from the Crime Victims Fund moving forward.

Appropriations

Annual funding decisions by Congress are an expression of our nation's policies priorities and the federal budget for tribal governmental services reflects the extent to which the United States honors its promises to Indian people.

Tribal leaders throughout Indian Country seek the same outcomes as other national leaders: to protect the health, safety, and prosperity of the populace they serve. Tribal leaders are addressing urgent societal challenges, often with inadequate resources and authority, but still facing expectations from their people for

safe communities, educational opportunities, health care, clean air and water, and economic growth. Effective tribal governments that can meet the essential needs of their citizens require the fulfillment of the modern federal trust responsibility as well as respect for tribal self-determination.

The NCAI FY 2016 Budget Request, included as part of this testimony, was developed in coordination with national tribal organizations and tribal partners, and offers recommendations for ways the Federal Government, partnering with tribes, should meet the educational needs of a young Indian population through Bureau of Indian Education schools, tribal schools, and the public schools on and near tribal lands; provide adequate health care via the Indian Health Service, both direct and self-governance; ensure responsible resource development for the future; provide safe and secure tribal communities; and supply the long-term investments in tribal public infrastructure and services required to ensure every American Indian and Alaska Native enjoys a decent quality of life and has an opportunity to succeed.

A combination of parity in governmental and program funding as well as promoting Indian self-determination will help to achieve the vision of broader progress in Indian Country. Several areas of tribal administration and services demonstrate the impediments to effective tribal governance due to disparities in resources, such as in tribal public safety and justice, child welfare, and natural resources, to name a few.

Contract Support Costs. The Indian Self-Determination and Education Assistance Act has represented the cornerstone of this nation's federal policy toward tribes for the last forty years. Under the Indian Self-Determination Act, the United States enters into inter-governmental contracts with tribes under which tribes administer federal programs, either through contracts of self-governance compacts for the benefit of tribal members. In amending the 1975 Act in 1988, Congress observed that the single greatest impediment to successful implementation of the Indian Self-Determination Policy was the consistent failure of the Bureau of Indian Affairs and the Indian Health Service to pay full contract support costs associated with the administration of transferred programs. Congress recognized that the failure of the BIA and HIS to pay full fixed contract support costs has often led to reductions in programs, amounting to partial termination of the Federal Government's trust responsibility.

NCAI calls on Congress and the Administration to honor the nation's current and future contract obligations to tribal nations and work diligently toward a permanent solution to contract support cost funding and to implement meaningful contract support cost reforms in consultation and partnership with Indian Country.

Work to secure full CSC funding without impacting program funding. Following the Supreme Court's *Ramah* decision, the Administration proposed "mini-caps" on contract support cost appropriations for FY 2014 that would have capped the amount of CSC available for each individual Indian Self-Determination Act contractor. Congress rejected the mini-cap proposal, which was vigorously opposed by tribes, and ultimately enacted the FY2014 Consolidated Appropriations Act without any limits on contract support cost spending at the individual or aggregate level. As a result the entire unrestricted lump-sum appropriations for the IHS and BIA were legally available to pay the agencies' contract support cost obligations.

Congress and the Administration must seek permanent full funding for contract support costs that will not come at the expense of direct program funding or retained tribal shares. All tribes agree that the payment of contract support costs, which is a legal obligation, should not be achieved by reducing direct services to any tribes. Tribes and tribal organizations across the country overwhelmingly support the creation of a permanent, indefinite appropriation for contract support costs, which would ensure full funding for contract support costs on an as-needed basis without impacting the rest of the IHS and BIA budgets.

Prompt Settlement of Past Claims. In June 2012, in the *Ramah* and *Artic Slope* tribal contracting case decisions, the Supreme Court rejected the Federal Government's defense of these breach of contract claims and rule that the government acted illegally in failing to pay tribes and tribal contractors the full contract price due under their Indian Self-Determination Act contracts. This breach covers thousands of contracts by the BIA and IHS extending back over more than twenty years.

Rather than acting quickly to resolve these claims, which are supported by years of data documenting the government's underpayments, the agencies insisted that in order to settle these claims they must re-audit contracts and re-calculate indirect cost rates according to retroactively-adopted accounting rules in an effort to re-determine the amount of underpayments. The result has largely been to further delay justice and further burden tribes with slow, expensive and unnecessary accounting battles, both in the contexts of individual IHS claims and the BIA *Ramah* class action sampling process. On the IHS side, where claims must be settled tribe-by-tribe

and year-by-year, progress has been made recently, however, by the agency's own account, some 600 claims remain unresolved.

Given the wealth of available data about the underpayments compiled by the agencies themselves, settlement of all cases should have taken no more than a few months—it should not take years. While tribes appreciate the progress that has been made, further delay is not acceptable and the agencies must approach settlement with all tribes in a consistent and equitable manner.

Education

No resource is more important to the continued success and growth of our nation and Indian Country than our children. It is vital that we all work together to strengthen our human capital in all tribal communities across America. The greatest way to do just that is to provide a high-quality, culturally-appropriate education that effectively and equally benefits all of our nation's children—including our Native children.

Ensuring equal educational opportunities is not simply a matter of fairness, but even more importantly in today's challenging economic climate, it is an essential strategy for creating jobs and securing the nation's future prosperity especially in tribal communities. Education also drives personal advancement and wellness, which in turn improves social welfare and empowers communities—elements that are essential to protecting and advancing tribal sovereignty and maintaining tribes' cultural vitality.

The Federal Government provides education to Indian students in two ways, through federally funded Bureau of Indian Education (BIE) schools or through education assistance to public schools where Indian students attend. Currently 620,000, or 93 percent, of Indian students attend public schools and approximately 45,000, or 7 percent, attend BIE schools. There are 184 BIE-funded schools (including 14 peripheral dormitories) located on 63 reservations in 23 states.

Many challenges exist in reforming the educational system for Native students. For example, the 2011 National Indian Education Study found that Native students continue to score significantly lower than their peers in reading and math in grades four and eight. The severity of the current state of Indian education is perhaps most apparent in the Native high school dropout rate. The graduation rate for American Indian and Alaska Native high school students is 67 percent—the lowest of any racial/ethnic demographic group across all schools.¹ Even worse, the graduation rate for Native students in the Bureau of Indian Education (BIE) school system is a staggering 53 percent compared to the national average of 80 percent.² In fact, recent data finds that while the graduation rates continue to rise nationally, with strong gains by the Latino and African American communities, Native American students have experienced only modest improvements since 2000 and have seen their graduation rates actually decline since 2008.

NCAI applauds the work of this Committee in the last session of Congress in renewing focus on Indian education and holding five separate hearing on issues impacting Native students from pre-k to college. We request that the Committee continue this work and introduce tribal-specific legislation to improve Indian education while working with the Health, Education, Labor and Pension Committee as it proposes changes to the Elementary and Secondary Education Act.

As reauthorization of the No Child Left Behind Act begins this year it is vitally important that tribal leaders and educators are included at the forefront to ensure greater tribal participation in the educating of their children, to expand the investment in culture and language revitalization, to provide greater support for Native teachers, administrators, and leaders, and to promote greater interagency coordination for a truly holistic approach to the educational experience of all students. Specific recommendations include:

Reauthorization of ESEA (No Child Left Behind Act). Support a reauthorization of the Elementary and Secondary Education Act (ESEA) that improves education opportunities for Native students. Indian Country needs strong, concerted, and sustained support to include key Native education priorities that will allow tribes to take greater control over the education of their citizens and help Native students succeed in the classroom and beyond:

¹*Indian Students in Public Schools—Cultivating the Next Generation: Hearing on Indian Education Before the S. Comm. On Indian Affairs, 113th cong. (2014)* (testimony of William Mendoza, Exec. Dir., White House Initiative on Am. Indian and Alaska Native Educ.).

²See Marie C. Stester & Robert Stillwell, U.S. DEPT OF EDUC., NAT'L CTR. FOR EDUC. STAT., PUBLIC HIGH SCHOOL FOUR-YEAR ON-TIME GRADUATION RATES AND EVENT DROPOUT RATES: SCHOOL YEARS 2010–11 AND 2011–12 (10) 2014, available at <http://nces.ed.gov/pubs2014/2014391.pdf>.

- *Strengthen tribal control of education:* Tribes should be granted the authority and funds to build capacity for their education departments in the same ways that are provided to states and districts. The ESEA reauthorization should authorize tribes to operate ESEA title programs in public schools that are located on Indian lands and serve Native students. The Department of Education would work with tribes to identify appropriate title programs for tribal administration, and tribes would work with the local educational agency on their respective reservations to implement the title program(s) in qualifying schools.
- *Preserve and revitalize Native languages:* The survival of Native languages and cultures is essential to the success of our communities and ways of life. Because immersion is largely recognized as the best way to learn a language, the reauthorization of the ESEA should authorize a grant program to develop and maintain Native language immersion programs.
- *Provide tribes with access to tribal member student records:* The ESEA reauthorization needs to expressly grant tribes and tribal education agencies (TEAs) access to tribal student academic records in the same way that local educational agencies have access. Tribes and their education agencies are in the best position to track and coordinate Native student data.
- *Encourage tribal/state partnership:* States that have Indian lands within their geographic boundaries have not been required—or even encouraged—to collaborate with tribes to meet the educational needs of Native children. The ESEA reauthorization must require states and local educational agencies to consult with tribes when developing applications for various ESEA title programs.
- *Equitably Fund the Bureau of Indian Education:* The Bureau of Indian Education (BIE) is currently ineligible for many of the Department of Education's flagship programs, such as Race to the Top, because the ESEA does not include language expressly making them eligible. The ESEA reauthorization should include express statutory language making all funding stream available to BIE schools, either through an overarching provision or within each ESEA program.

NCAI also requests that the Committee works with the Administration on several key recommendations that could enhance educational opportunities for Native students.

Blueprint for Reform. Last year, Secretary of the Interior Sally Jewell and the Secretary of Education Arne Duncan convened the American Indian Education Study Group (Study Group) to address the systemic challenges facing the Bureau of Indian Education (BIE) and to propose a comprehensive plan to reform the system. The Study Group held listening sessions in tribal communities and drafted a framework on proposed reforms following the listening sessions. After publication of the draft framework for reform the Study Group conducted four tribal consultations in April and May of this year and received public comment through June. NCAI and the National Indian Education Association (NIEA) submitted joint comments on the proposed framework advocating for reforms that address the needs of tribal communities and their BIE schools expressed by our membership.

Following the input from tribal leaders, Native educators, organizations, and other stakeholders, the Study Group released a “Blueprint for Reform” during President Obama's trip to Indian Country in June of this year aimed at transforming the BIE system from a director provider of education into a capacity-builder and service-provider to tribes with BIE-funded schools. The aim of the current reforms is to empower tribes to have greater control in the education of their children who are currently attending BIE schools.

Resulting from the recommendations in the “Blueprint for Reform,” Secretary of the Interior Sally Jewell issued a Secretarial Order that will implement the recommendations. The implementation is currently underway in a two-phase process: the first over the course of the 2014–2015 academic year and the second over the course of the 2015–2016 academic year.

NCAI has committed to engaging tribal leaders in ensuring tribal engagement with this effort at reform of the BIE school system, but also requests that the Committee conduct oversight of this reform to ensure that it is conducted in a manner that will achieve the goals of tribal control over BIE schools.

Elevate Key Positions at the Department of the Interior and the Department of Education. Too often, Indian education is second-tier to many other important priorities facing administration officials making policy for tribal communities. The Administration must establish key positions in both federal departments that oversee the education of Indian Country's most precious resource—their children. The Bureau of Indian Education (BIE) Director is often mired in a heavily bureaucratic structure within the Bureau of Indian Affairs (BIA) that creates barriers to effective

tively advance policy change. In addition, the Office of Indian Education at the Department of Education (ED) primarily serves as an administrator of Title VII—the Indian Education Title—within the broader ESEA. Taken together, the issues and concerns facing Indian education are often unable to reach the Secretarial level where effective change can truly occur. Having senior positions in both Departments will ensure greater active participation in the formation of Indian education policy in both the BIE and the public education system.

Reissue the Executive Order on Tribal Colleges and Universities. Executive Order 13592, which established the White House Initiative on American Indian and Alaska Native Education, was a step in the right direction for Native education. However, tribal colleges and universities (TCUs) previously had a stand-alone Executive Order and their own initiative, which Executive Order 13592 rescinded and folded into a single Executive Order on Native education. Tribal leaders and Native educators did not request this change, and the net result has been less effort focused on strengthening TCUs. We urge this Committee to request that the Administration reissue the separate Executive Order and Initiative on TCUs, sufficiently fund both programs so they may meet their mandates, and direct that the two Initiatives work together. Current Executive Orders on African American education and historically black colleges and universities already do this for other students. American Indian and Alaska Native students deserve no less.

Natural Resources

American Indian and Alaska Natives have nurtured, lived, and thrived off this land as first stewards since time immemorial. Tribes' cultures, traditions, lifestyles, communities, foods, and economies all depend upon many natural resources, and yet so many critical natural resources and disappearing faster than we can restore them. However, the ecological practices tribal peoples have cultivated for millennia are inherently sustainable and practical; they are time tested methods for resource and, correspondingly cultural survival.

Today, tribes are using their unique knowledge and skills in concert with modern management practices, often collectively with community and non-tribal organizations, to produce real accomplishments and model programs of excellence. Tribes and their communities can cite many examples where they have shaped the successful restoration and sustainable management of fragile natural resources through a commitment to stewardship that often requires arduous, through rewarding, collaboration with states, regional organizations, local governments and other stakeholders in larger ecosystem management efforts.

Tribes, as proven effective managers of their own resources, must be provided with the necessary tools and support as require by the treaty and trust responsibilities of the Federal Government. Congressional investment in tribal natural resources management helps to sustain tribal land and people and grow economies by fostering tribal economic self-sufficiency, cultural revitalization, and collaborative working relationships across jurisdictions, supporting communities and economies throughout the United States.

NCAI has the following recommendations on legislation that will be considered by Congress this session:

Wildfire Disaster Funding Act. The management of the forests, grasslands, and rangelands to restore them to resilient ecosystems and a sustainable environment furthers the protection of our territories, reservations, treaty and trust resources, and sacred and religious sites. As wildfires are increasing in frequency and intensity, the current practice of funding wildfire fighting, transferring funds from non-fire programs to cover the cost of essential fire suppression, has undermined the U.S. Department of Agriculture's (USDA) and Department of the Interior's (DOI) ability to sustainably manage the forests, grasslands, and rangelands that are critical to tribal culture, religion, treaty rights, and trust resources.

Legislation introduced in the 113th Congress would treat the budget for responsible fire suppression in a similar manner to other emergencies such as floods and hurricanes, while ensuring funding for general land management and restoration actions that can reduce the need for wildfire suppression in the future. Identical legislation has been introduced in the House in the 114th Congress and NCAI urges this Committee to continue the work of the bipartisan group of Senators and Congressmen who introduced this legislation in Congress to ensure that essential forestry funding goes to the necessary programs and that the critical wildfire disaster funded just like other natural disaster emergencies.

Magnuson-Stevens Reauthorization. The Magnuson-Stevens Fisheries Conservation Act (MSFCA) is due to be reauthorized and it is time for some much needed changes and amendments to incorporate American Indian and Alaska Native in the

decisionmaking processes as well as a need for improved practices to protect the health of our fish resources.

Despite being charged with the upholding fishing treaty rights of Northwest tribes and the right to fish of Alaska tribes, the management of the North Pacific Fishery Management Council fails to consider the needs of American Indian and Alaska Native people and the structure of the council prevents tribes from participating as part of the decisionmaking process and engages in a flawed single-species based management system which does not consider the food web dynamics, fishing gear impacts, and non-target species taken as bycatch has resulted in the overfishing of a third of the nation's fish stocks. Without appropriate reform of the MSFCA, natural fish populations and the Alaska Native inhabitants' well-being along with the treaty-protected rights of Pacific Northwest Indian nations and tribes will continue to be at risk.

NCAI requests that the purpose of the MSFCA be amended to include promotion of Alaska Native subsistence rights and tribal fisheries based on treaty rights, including a mandate to be responsive to the needs of federally recognized tribes, and require that tribes and Native subsistence users be represented on the North Pacific Fishery Management Council. Further, it must utilize ecosystembased management rather than species specific management and additional methods to better protect fish stocks and health. The management councils as well as all fishery plans must not only include input from tribes, but must also reflect treaty rights and subsistence rights American Indians and Alaska Natives while limiting states' ability to interfere with treaty and subsistence rights. Finally, the MSFCA must provide resources for mitigation efforts when needed to protect tribal treaty rights including: increased hatchery production, habitat protection and restoration, development of alternative fisheries when primary fisheries have been reduced, and the development of value added programs to increase the value of treaty fisheries.

Protection and Health of Tribal Forests. The 2013 Indian Forest Management Assessment Team (IFMAT) III Report identifies not only the success of innovative tribal forestry management practices despite extremely limited federal funding and support, but the possibilities of continued improvements with some key legislative and administration policy and funding changes. The Report found that, on a per acre basis, tribes receive only one-third the funding for forestry and wildfire management as the U.S. Forest Service, but are to stretch those funds using holistic approaches and traditional ecological practices to maintain some of the healthiest forests in the country. While this is a success is a testament to tribal innovation, the funding and staffing levels continue to dwindle down to amounts well below the levels necessary to fulfill the fiduciary trust obligations leaving the ability to do so in the future very much in doubt.

There are several items this Committee and the 114th Congress can do to help support tribal forestry management while upholding the federal trust responsibility and promoting tribal self-determination. First, the Anchor Forests concept needs to be supported by legislation. Anchor Forests, "a relatively large multi-ownership area that will support sustainable long-term wood and biomass production levels backed by local infrastructure and technical expertise, and endorsed politically and publicly to achieve the desired land management objectives," are key to forest health and sustainability. Next, while the Tribal Forestry Protection Act of 2004 (TFPA) was passed to allow tribes the ability to propose projects on adjacent federal lands to protect tribal rights, lands, and resources by reducing threats from wildfire, insects, and disease, the Act has not met these important expectations. TFPA needs to be amended to expedite consideration, approval, and implementation of TFPA projects.

In addition to these legislative proposals, NCAI requests that the Committee should work with the Administration to ensure that tribes can achieve parity with other governments in the management of their natural resources and to ensure that adequate consultation is conducted on matters that impact tribal management of natural resources.

Parity for tribal governments in Natural Resource programs. In order for tribes to adequately care for and fully utilize their natural resources and maintain natural resource management programs, funding for Bureau of Indian Affairs natural resource programs must increase. Tribal funding has declined incrementally over decades, more precipitously than other Department of the Interior natural resource programs, while tribes continue to be excluded from eligibility for billions of dollars from dozens of natural resource programs across the federal agencies that are otherwise available to states, local governments, and other entities.

Consultation. We request the Committee work with the Administration to ensure tribal inclusion and consultation in the development and implementation of laws, programs, and policies that affect tribal interests in natural resources and include tribes as eligible entities for all conservation programs and measures.

Healthcare

The health and wellness of tribal communities depends on a network of health, education, and wellness service providers, prevention coordination, and tribally-driven initiatives. Despite the Federal Government's trust responsibility to provide health care to our people, American Indians and Alaska Natives continue to experience the greatest health disparities in the United States when compared other Americans. Shorter life expectancy and the disease burdens carried by American Indians and Alaska Natives exist because of inadequate education, disproportionate poverty, discrimination in the delivery of health services, and cultural differences. These are broad quality of life issues rooted in economic adversity, poor social conditions, and decades of historical trauma.

Tribal leaders recognize that the responsibility for wellness of their community lies with the tribal government working in concert with their citizens and with agencies across the Federal Government. The Indian Health Service has been and continues to be a critical institution in securing the health and wellness of tribal communities, and advance appropriations are necessary for IHS. New health care insurance opportunities under the Affordable Care Act beginning in 2014 and expanded Medicaid in some states have expanded health care resources available to many American Indians and Alaska Natives. A fix to the definition is required to ensure that all American Indians and Alaska Natives are receiving the special benefits and protections for American Indians and Alaska Natives. However, these new opportunities are still no substitute for the fulfillment of the federal trust responsibility.

Advance Appropriations for the Indian Health Service. NCAI along with many national and local health boards are on record supporting the need for legislation to authorize advance appropriations for the Indian Health Service. Since 1998, appropriated funds for medical services and facilities through IHS have only been provided before the commencement of the new fiscal year one time. Late funding has resulted in significant challenges to tribal and IHS programs as to budgeting, recruitment and retention, provision of services, and facility maintenance and construction efforts, as well as other areas.

The goal of advance appropriations is for the Indian Health Service and tribal health care providers to have adequate advance notice of the amount of federal appropriations to expect to administer health programs and services to American Indian and Alaska Native people and thus not be subjected to the uncertainties of late funding and short-term continuing resolutions. Congress provides advance appropriations for the Veterans Administration medical accounts, and the request is for parity in the appropriations schedule for the IHS.

Definition of Indian in the ACA. The Affordable Care Act provided for permanent reauthorization of the Indian Health Care Improvement Act, ending a 17 year effort for reauthorization. Tribes are adamantly opposed to repeal of the ACA, however, if this Congress takes up specific provisions of the bill, tribal leaders seek a fix to the definition of Indian within the ACA. There are three separate definitions of Indian throughout the ACA which creates confusion in eligibility for certain benefits. Tribes seek consistency in the definitions to ensure that all those currently eligible for benefits continue with those benefits.

Permanent Reauthorization of the Special Diabetes Programs for Indians. At nearly 16.1 percent, the American Indian and Alaska Native population has the highest of diabetes among all U.S. racial and ethnic groups, and an estimated 30 percent percent of American Indians and Alaska Natives are pre-diabetic. In 1997, Congress addressed the growing epidemic of diabetes in American Indian and Alaska Native communities by passing the Balanced Budget Act which established the Special Diabetes Programs for Indians. The Special Diabetes Programs for Indians provides assistance for developing local initiatives to treat and prevent the disease and has served as a comprehensive source of funding to address diabetes issues in tribal communities by providing grants for diabetes prevention and treatment services to more than 400 Indian Health Service, tribal, and urban Indian health programs in 35 states. These grants are critical to improving the overall health of American Indian and Alaska Native people because they greatly enhance the effectiveness of preventative health programs and allow programs aimed at stopping the spread of diabetes to children and young adults to be established.

The Special Diabetes Program for Indians was last reauthorized in 2014 for a period of one year, and its current authorization expires on September 30, 2015. NCAI requests that legislation permanently reauthorized and that full funding be provided for the permanent continuation of this program.

Exempt Tribal Employers from the ACA Employer Shared Responsibility Mandate. The Employer Shared mandate violates the federal trust responsibility because it requires AI/ANs to pay for the cost of their own health insurance and also requires

tribes to subsidize IHS services. AI/AN are exempt from the individual mandate and AI/AN should not be required either directly or indirectly to pay for private insurance offered by their employer. Most importantly, the mandate will be unaffordable for many tribal employers and require them to use limited resources towards either insurance premiums or shared responsibility payments which could be used for other services and programs.

Native Veterans

American Indians and Alaska Natives have proudly served in the United States military since the Revolutionary War. From earlier struggles such as the Spanish-American War to the present-day conflicts in Iraq and Afghanistan, Native people continue to serve at higher percentages than any other ethnic group. It is estimated that over 150,000 veterans identify as American Indian and Alaska Native, with over 24,000 active duty Native service members currently serving in the Armed Forces. With their warrior tradition and the sacrifices that have been made, it is vital to create sound policies and programs to promote the overall wellbeing of our Native veterans. NCAI seeks fair and dignified treatment of all veterans while advocating for federal support and funding for Native veteran programs and services that are greatly needed and deserved.

Native veteran issues are similar to non-veteran tribal community members, adequate health care to address increases in the incidence of diabetes, various types of cancer, neurological and autoimmune disorders; unemployment; domestic violence; substance abuse; criminal activity; and suicide. Native veterans are the single most underserved group of veterans of the American Armed Forces. Geographical distances present challenges for many veterans to access resources and programs not only for compensation and pensions, but for economic and educational benefits through the Department of Veterans Affairs (VA), the Department of Labor, the Small Business Administration, and other federal agencies and entities. This is particularly true of those who live on reservations and in tribal communities where there are considerable distances between clinics and medical centers operated by the Department of Veterans Affairs Health Administration.

Tribal Veterans Service Officers in Indian Country—Parity with State and County Veterans Service Officers. Tribal veterans should have equal access to representation and the benefit of services from the Department of Veterans Affairs (VA). One great first step to better ensuring this happens for our veterans is to provide the establishment of Tribal Veteran Service Officers (TSVOs) who are designated by local tribal leadership. These officers would function on the same basis as state and county veterans service officers pursuant to 38 C.F.R. Sect. 14.628. The current use of Tribal Veterans Representatives (TVRs) is insufficient as their purpose is to purely disseminate information to veterans, not to be their advocates. TVRs are trained by VA personnel often with no knowledge or awareness of the local Native culture and needs. TVSOs makes sense both as a matter of tribal sovereignty of providing their own representation and advocacy on behalf of tribal governments' veterans before the VA. Further, TVSOs will ensure greater cultural competency in the pursuit of claims arising from psychic trauma and other mental/behavioral issues affecting veterans—they will provide for cultural competent mental health evaluations and facilitate the use of traditional healing practices in that process. TVSOs would meet the same employment/appointment, training, and certification standards that apply to State and County Veterans Service Officers.

Indian Health Service/Veterans Administration—Memorandum of Understanding. It is appalling that Native veterans have become victims of bureaucratic technicalities in the health care delivery system. In 2010 the Indian Healthcare Improvement Act was permanently reauthorized as Title X under the Patient Protection and Affordable Care Act. Included in Title X was a provision mandating the Department of Veterans Affairs (VA) to reimburse tribes, the IHS, and tribal organizations for services provided to veterans. A memorandum of understanding has since been established between the VA and the Indian Health Services to aid this provision. However, the Veterans Administration is only reimbursing tribes that (1) agree to enter into a model agreement the VA has developed, and (2) the VA does not allow for reimbursement of purchased/referred care provide through tribal health programs, limiting reimbursement to only direct service care. The Veterans Administration's implementation of this provision of Title X must be done in a manner that is streamlined and focuses on providing timely and quality health care. We are asking Congress to conduct oversight hearings on this matter to ensure the most effective delivery of health services to which Native veterans are entitled.

Improper State Taxation of Reservation-Domiciled Service Members. Federal law prohibits states from taxing the pay of military service members who are not a domiciliary of that state. However, for years now the U.S. Department of Treasury

has improperly withheld military pay for states from American Indian service members domiciled on reservations. The enlistment process must be changed with notification given to Native veterans who are residing in Indian Country in order to prevent this wrongful taxation. We call upon Congress to address this matter by providing Congressional oversight and ask the Chairman to address this matter and contact officials from all relevant departments and agencies including but not limited to: the Department of Defense, the Department of Veterans Affairs, the Department of Treasury, and the Department of Justice. We must make sure that our service members are receiving their full compensation for their honorable service to our nation.

Conclusion

NCAI appreciates the opportunity to present Indian Country's priorities for the 114th Congress to the Committee. We look forward to working with the Indian Affairs Committee and its members during this Congress to advance the interests of tribal governments in accordance with the federal trust responsibility.

The trust relationship in the 21st Century must maintain the nation-to-nation treaty obligations, such as the provision of education, public safety, health care and more, while promoting tribal capacity and governance. That relationship has evolved over time to recognize the self-governance potential of Native peoples and governments, but also needs to be modernized to reflect the needs of Native people today. The Congress, and this Committee, in meeting its treaty and trust obligations, plays a key role in Indian country. If Congress shrinks away from its commitments it leads to grave impacts to the harmony of tribal communities. But when, this Committee, and the Congress as a whole honors its commitments based in the trust responsibility while promoting tribal self-determination, Native people and leaders can solve long-standing social and economic dilemmas.

The CHAIRMAN. Thank you so much for your testimony.

Melvin Monette, who is the President of the National Indian Education Association. Welcome.

STATEMENT OF MELVIN MONETTE, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

Mr. MONETTE. Thank you, Chairman Barrasso, Vice Chairman Tester and members of the Committee. Thank you for inviting the National Indian Education Association here today to provide testimony on Indian Country priorities for the 114th Congress. I am Melvin Monette, President of the National Indian Education Association and a citizen of the Turtle Mountain Band of Chippewa Indians.

Before I begin, I want to add that NIEA supports the requests of our partner organizations here today and requests that the chairman submit our written testimony and supplemental documents into the record.

During the State of the Union address, the President rightfully celebrated the Nation's all-time high graduation rates among high school students. Unfortunately, the stressed graduation rates and academic successes are not representative of many communities. Native students continue to trail their peers in reading and mathematics. Our students face some of the lowest high school graduation rates in the Country. Among many causes, these trends can be traced to disproportionately high incarceration and criminal recidivism in Native communities.

Native education is one of the most effective and efficient investments the Federal Government can make. Data illustrates an initial investment in education creates future successes, which decreases incarcerations, instances of traumatic violence and repeat criminal offenses later in life. To provide the needed investments, NIEA provides the following recommendations.

Congress should work with tribes to increase self-determination within the Elementary and Secondary Education Act, or ESEA. Provide critical Bureau of Indian Education reform oversights, and support holistic Native youth programs such as juvenile justice resources.

I will briefly discuss each, beginning with the ESEA authorization. Tribes and Native communities have long awaited the opportunity to partner with Congress to take bold actions on improving education systems serving Native communities. As the ESEA reauthorization gains momentum, we look forward to working with this body and others to ensure any ESEA reauthorization language specifically gives tribes eligibility to directly administer educational resources. Tribes have shown great success in delivering health care and other local services but now is the time to allow tribes the ability to provide similar solutions to the education dilemma in our communities.

The Federal Government should work directly with tribes to develop their capacity to administer ESEA title programs, including critical language immersion and culture courses, in schools that are serving Native students and are located on tribal lands. Tribes understand their children best and can more efficiently and effectively address their students' unique cultural and educational needs.

Regarding BIE reform, NIEA was optimistic when we learned of the renewed effort to reform the BIE school system. We appreciate the continued outreach BIE has provided in coordination with NIEA, but we respectfully agree with tribes who continue to request detailed written information on what reform means for our local communities.

The current plan for BIE reform, while well-intentioned, was not a direct result of extensive tribal consultation. So, after a year of implementation, we must ensure proper oversights and accountability measures are in place to monitor the Bureau's reorganization.

We request that this Committee form a Congressional investigation into the BIE restructuring to ascertain if the secretarial order creates any statutory conflict as well as document DOI proposed offsets intended to pay for the restructuring. We also request an immediate convening of a tribal leaders oversight committee, which would report to Congress on the current status of the reform and guarantee tribal concerns are heard and addressed.

Regarding juvenile delinquency in Native communities, Native youth comprise only 1 percent of the Nation's youth. Yet they account for 3 percent of offenders. For some offenses, Native youth are arrested twice and three times as often. That is why it is critical that the Federal Government work with tribes to decrease the rates of violence and juvenile delinquency and address continued instances of recidivism.

Our populations are among America's most vulnerable, yet our programs are often hit hardest during Federal funding negotiations. We hope to work with you to reinstate \$620,000 for juvenile detention education and BIA funding at facilities, as well as provide critical educational services to detained and incarcerated youth. We then need you to work with local partners and tribes

across the Country to develop sound plans for addressing local concerns.

As tribes increase their governance and education, they need support to assist in accelerating local relationship building and holistic juvenile services throughout their school systems. By strengthening tribal sovereignty and education, we will make the tribe the central nexus for connecting parents and families to critical programmatic supports, while also ensuring the use of a culturally responsive methodology.

The opportunity for educators, families and tribal leaders to change a child's life is extensive. But their combined work must be supported here in Washington and grounded in tribal self-determination and the preservation of the Federal trust responsibility. NIEA appreciates your continued support to do just that, and I look forward to answering any questions you may have. Thank you.

[The prepared statement of Mr. Monette follows:]

PREPARED STATEMENT OF MELVIN MONETTE, PRESIDENT, NATIONAL INDIAN
EDUCATION ASSOCIATION

Chairman Barrasso, Vice Chairman Tester, and members of the Committee, thank you for inviting the National Indian Education Association (NIEA) to testify today. I am Melvin Monette, President of NIEA and a citizen of the Turtle Mountain Band of Chippewa Indians. On behalf of NIEA, I am grateful for this opportunity to provide testimony for the record on "Indian Country Priorities for the 114th Congress." I would also like to thank the Committee for hearing the collective call of tribes and Native communities regarding the need to highlight the priorities and needs of our communities. The commitment of this Committee is critical as we work together to ensure equitable educational opportunities are provided to Native students.

NIEA, founded in 1969, is the most inclusive Native organization in the country—representing Native students, educators, families, communities, and tribes. NIEA's mission is to advance comprehensive educational opportunities for all American Indians, Alaska Natives, and Native Hawaiians throughout the United States. From communities in Hawaii, to tribal reservations across the continental U.S., to villages in Alaska and urban communities in major cities, NIEA has the most reach of any Native education organization in the country.

The State of Native Education

Put simply, Native students are leaving high school unprepared for college and careers. Among numerous issues, these trends are often due to disproportionately high incarceration and criminal recidivism rates. In 2011, greater percentages of Native students and youth—nearly three to one—were incarcerated when compared to their non-Native peers. Consequently, in the last decade only 52 percent of Native students enrolled in higher education programs immediately after high school graduation with fewer than 40 percent of those students graduating with a bachelor's degree in six years.¹ In contrast, nearly 62 percent of White students graduated within six years.

For Native students to succeed in school and become our next generation of leaders, Native communities need the Federal Government to provide resources and support systems to guarantee tribally-led initiatives create safe environments and opportunities that decrease juvenile delinquency among Native youth.² Education is critical to breaking the cycle of violence and criminal activity many Native students currently face. Unfortunately, historical funding trends illustrate that the Federal Government is abandoning its' trust responsibility by decreasing federal funds to Native-serving programs by more than half in the last 30 years. Although tribes work to divert precious funds to cover shortfalls, there are simply insufficient resources for decreasing crime and increasing student achievement. Until reinvest-

¹ U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 2005, 2007, and 2009 National Indian Education Studies.

² U.S. Census Bureau, American Community Survey 2005–2009 estimates.

ment takes place, reoccurrences of crime, violence, and low student achievement will remain commonplace.

The Federal Trust Responsibility

Since its inception, NIEA's work has centered on reversing the negative statistics characterizing Native students. Established through treaties, federal law, and U.S. Supreme Court decisions, the federal-tribal trust relationship includes a fiduciary obligation to provide parity in access and equal resources to all American Indian and Alaska Native students, regardless of where they attend school. Under the Federal Government's trust corpus in the field of Native education, it is important to state that the obligation is a shared trust among the Administration and Congress for federally-recognized tribes.

Native education is one of the most effective and efficient investments the Federal Government can make because data suggests that initial investments in education create future success, which results in fewer incarcerations, instances of traumatic violence, and repeat criminal offenses later in life. Likewise, reinvesting in the services and programs tribes and Native communities utilize to combat juvenile delinquency and criminal recidivism will support the education systems necessary for creating student preparation for college and careers.

As such, NIEA applauds this Committee's commitment toward upholding the trust relationship and our communities and tribes. NIEA priorities for the Committee broadly fall under three categories: Elementary and Secondary Education Act (ESEA), Bureau of Indian Education (BIE) reform oversight, increasing holistic Native youth support systems such as juvenile justice resources, as well as general priority provisions. Implementing the following recommendations would ensure the Federal Government upholds this trust relationship by reinvesting critical resources that decrease violence and improve the education systems serving Native students.

1. ESEA Reauthorization Recommendations

The ESEA reauthorization is a key opportunity for the Federal Government to uphold its' trust responsibility and fairly provide Native students education services based on principles of accountability, equity, and excellence. The ESEA is in pressing need of updating and we request that the United States honor its' commitment to tribes and Native education by strengthening tribal self-determination and fairly providing Native students comprehensive educational opportunities by incorporating NIEA's ESEA priorities within any reauthorization.

During the State of the Union Address, President Obama rightfully celebrated the nation's all-time high graduation rates among high school students. Unfortunately, the stressed graduation rates and academic successes are not representative of many Native communities. NCLB has done little to address the longstanding challenges affecting Native students. Over the past decade, Native students continue to trail their peers in reading and mathematics (grades four and eight). Nationwide, our students face some of the lowest high school graduation rates with even fewer students graduating from college. Native education is in a state of emergency and tribes have long awaited the opportunity to partner with Congress to take bold action that will significantly improve the education systems serving Native communities.

Tribes and Native communities have an enormous stake in their children's education. While the ESEA reauthorization must provide effective accountability to protect the civil rights of all Americans, the ESEA reauthorization must also be a commitment to the sovereignty of this country's First Americans. As such, the ESEA draft should be revised to support tribal nations as they develop their ability to deliver education services as well as coordinate with local and state educational agencies. Only by including the following priorities will an ESEA reauthorization ensure effective and efficient use of funds and delivery of resources to Native communities as well as increase Native student achievement.

Priorities Implementation

- **Strengthen Native Participation in Education:** Tribes should have the authority to build their capacity to administer education title programs. Native leaders understand their children best and can better address their students' unique cultural and academic needs.
- **Encourage Tribal/State Partnerships:** While the Federal Government has a trust responsibility to work with tribes, tribal concerns are often excluded at the state and local level. The ESEA reauthorization should require local and state educational agencies to closely work and meaningfully consult with tribes when developing applications and plans for ESEA title programs.

- **Preserve and Revitalize Native Languages:** The continued existence of Native languages is crucial to protecting and strengthening Native culture and tribal communities as well as increasing the academic achievement of Native students. Any ESEA reauthorization should provide resources for eligible schools to participate in a program to develop and maintain Native language immersion education models.
- **Increase Access to Native Student Records:** Native students often transfer between federal, state, and tribal school districts, which creates information gaps as systems are not required to track and coordinate student data. The ESEA reauthorization should provide the ability for schools and state and local educational agencies to share Native student data with their local tribes. Providing such information will create longitudinal student statistics that will help schools and Native partners alleviate issues that decrease Native student achievement.

II. BIE Reform: Oversight and Accountability to Strengthen Tribal Self-Determination

While Native education stakeholders and tribes have numerous priorities geared toward improving their education systems, NIEA would be remiss if testimony excluded the important influence of BIE reform and its' reorganization. Since the late 20th Century, the Federal Government has worked to strengthen tribal capacity to directly serve their own citizens. In this spirit, Congress must ensure federal programs support local reforms necessary to increase self-determination.

Congress should work with the Administration to ensure proper oversight and accountability measures are in place for the BIE reform process. As the reorganization enters its second year, more information must be disseminated to tribes on the status of the reform. NIEA appreciates the BIE webinars and outreach held in coordination with our organization. However, tribes continue to request written information for what reform means for their local communities as well as guidance for the overall authority claimed by the BIE to make such reforms without congressional action.

The current proposal for BIE reform, while well intentioned, was not a direct result of tribal consultation, so we must ensure proper oversight and accountability measures are in place to monitor the Bureau's reorganization and its' federal programs utilized by tribes. The Committee should form a congressional investigation into the BIE restructuring and Blueprint for Reform to ascertain if the Secretarial Order creates a statutory conflict and to document Department of the Interior proposed offsets to pay for the restructuring. To carry out such measures, the Committee should also convene oversight hearings with appropriate congressional committees to ensure oversight and accountability measures are in place for the reform process and that accurate information is provided to tribes and their education systems.

Priorities Implementation

- Congress should ensure federal programs support local reforms necessary to increase self-determination.
- Congress should work with the Administration to ensure proper oversight and accountability measures are in place for the BIE reform process as well as call on the Secretary of the Interior to disseminate detailed guidance to tribal communities for the local reform implementation process and what BIE reorganization means for local Native communities and Native students, families, and educators.
- The Committee should immediately call for and convene a tribal leaders' oversight committee to report to Congress on the current status of the reform in order to provide needed oversight and accountability.

III. Decrease Juvenile Delinquency in Native Communities

1.) *Meaningful Cooperation:* U.S. Department of Health and Human Services (HHS) statistics reveal that American Indian children face higher rates of child abuse and neglect, juvenile delinquency, suicide, substance abuse, and lower rates of academic achievement.³ For example, the Youth Risk Behavior Survey illustrates that 16 percent of students at BIE schools in 2001 reported having attempted suicide, which is the second largest cause of death among Native youth—twice as many as the national average. As Native children face higher rates of violence at home,

³ Attorney General's Advisory Committee within the Department of Justice. 2014 Report on American Indian/Alaska Native Children Exposed to Violence. November 2014.

such unsafe environments often translate into issues in the classroom resulting in lower achievement rates.

NIEA was excited by the creation of the Attorney General's Advisory Committee within the Department of Justice (DOJ) as well as the work of the DOJ Task Force to hold open meetings and develop a 2014 Report on American Indian/Alaska Native Children Exposed to Violence. However, we were disappointed by the absence of classroom teachers and school administrators among Task Force experts, as they are on the front lines of school violence and understand Native students' needs. Educators are often the first to witness and handle occurrences of violence and this gap in expertise is discouraging. It is critical that the role of education is not underestimated in its ability to combat the many issues causing community violence and juvenile delinquency both in-school and after school.

Much work lies ahead. NIEA requests that Congress work with the Administration to take concrete steps to support the reforms required for increasing the capacity of tribes to govern education systems and address issues facing Native students. To achieve this, the federal agencies should help tribes increase their ability to administer education services in Native-serving schools and increase federal partnership opportunities with tribes and local leaders to support the tribal role to create community awareness that bolsters tribal collaboration and familial engagement that prevents violence and delinquency.

Priorities Implementation

- Engage Native education stakeholders, tribes, and local juvenile delinquency partners to create best practices and locally-led support services geared toward providing Native students' safe learning and after-school environments conducive for student success.

2.) *Agency Cooperation:* Because the BIE is located in many Native communities beset by violence and juvenile delinquency, cross-departmental support is crucial as tribes increase their capacity to administer education, mental health, and violence prevention services that keep students in school, deter criminal activity, and decrease violence. Although the BIE only serves seven percent of Native students, the BIE is uniquely situated to become a fundamental component to fighting community violence. BIE schools are centrally located in many Native communities, which provide the BIE the opportunity to become a catalyst for working as a capacity builder and creating community awareness.

DOJ should join the BIE and other agencies in providing resources to tribes for accelerating local reforms and aligning violence-reduction services with tribal education priorities based on local needs. Federal agencies must work locally in order to catalyze reform efforts and create high-performing schools, federal agencies would also provide on-going technical assistance to help tribes become the education leaders in their communities. These efforts would include coordinating a local network of services—whether they are led by the Department of the Interior (DOI) or DOJ—to provide complimentary supports to increase academic achievement while also addressing issues, such as substance abuse or other violence or psychologically-related issues.

Priorities Implementation

- Federal agencies, such as the Department of Justice, should ensure local cross-departmental support assists tribes as they increasingly administer education, mental health, and violence prevention services that keep students in school, deter criminal activity, and decrease violence.
- Ensure the BIE becomes an entity that works directly and meaningfully with tribes to provide Native-serving schools culturally sensitive juvenile programs.

3.) *Decrease Recidivism Rates Among Native Children through Policy and Appropriations Reform:* The Federal Government should work with tribes to decrease the rates of violence and juvenile delinquency among Native children as well as instances of recidivism. Native students and young adults should be eligible to receive critical funding for education programs, even if they have been incarcerated. These populations are among America's most vulnerable and should have the resources necessary to provide them opportunity to overcome past transgressions and achieve an education to become a strong citizen. Unfortunately, under the No Child Left Behind Act of 2001 (NCLB)—the current iteration of the ESEA—entities operating as detention facilities under Justice and Delinquency Prevention programs are ineligible for ESEA Title funds because such facilities are not interpreted as eligible local education agencies.

ESEA statute prohibits such institutions from providing critical education resources to Native students. As such, NIEA recommends that Congress works to re-

form current law to provide all Native students education resources that set them on the path to success no matter where they are located. While Native youth comprise of only 1.1 percent of the national youth population, they account for 3 percent of offenders.⁴ For some offenses, Native youth are arrested twice or three times as often. Therefore, providing education resources makes sense as more federal resources are often expended on recidivism and repeat offenders than would be otherwise provided for initial educational resources and tools to those serving in detention facilities. Creating opportunities and a means for self-betterment makes more sense than supporting Native children repeatedly returning to a life of crime and violence.

Priorities Implementation

- Reform the ESEA to ensure entities operating as detention facilities under Justice and Delinquency Prevention programs are eligible for ESEA Title funds as local education agencies.
- Reinstate \$620,000 for juvenile detention education in BIA-funded facilities and increase the funding line to provide critical educational services to detained and incarcerated youth at 24 BIA-funded juvenile detention facilities.

4.) *Disseminate Best Practices:* While the ability to analyze and discuss issues facing Native youth in hearings, such as these is critical for developing plans to address violence and delinquency, action must be taken locally in our communities to gather input from and provide supports for those personally connecting with our children. Educators, tribal education and child welfare service directors, as well as parents and family members, must be engaged to increase collaboration, so they may detail local initiatives that meet their community's needs. Services from DOJ, such as technical assistance on juvenile delinquency and substance abuse, should be present to ensure complimentary support as tribes develop community-driven engagement models, such as town halls and professional development sessions, which create action in Native-serving schools for minimizing violence.

As tribes increase their governance in education, they can assist by accelerating relationship building by making the school the central nexus for engaging parents in a culturally-responsive methodology that creates community buy-in. Tribes must be engaged with their local educators and schools in order for Native-serving institutions to understand how to work with parents and build community relationships. DOJ and the BIE can support these efforts by setting up models for tribal collaboration among the schools and justice programs. NIEA has created similar community pilot programs that increased the ability of tribes to engage local teachers in curriculum development.

In the Jemez Pueblo located in New Mexico, tribal leaders hold monthly collaborative meetings with public, charter, and BIE school administrators and teachers in order to ensure they are meeting local needs by coordinating calendars, placing elders in the classroom to help with cultural learning, and implementing community-wide professional development training. Such trainings ensure the exchange of best practices as well as create support systems for addressing the needs of their Native children. This collaborative model can and should be used across a variety of Native communities in order to disseminate best practices among peers in battling crime and violence. Regardless of whether it is curriculum development or reducing violence in the community, local cooperation is critical for creating the family and tribal engagement needed to reduce local violence.

The opportunity for educators, families, and tribal leaders to change a child's life is extensive, but their support must be continually present. By tribes developing their capacity to increasingly work with their schools and families in order to provide services and collaborative engagement, families will stay informed and feel appropriately comfortable participating in their child's life. When a parent understands and trusts the system teaching or helping their child with an issue, the parent will support those institutions. The Federal Government should not work in a vacuum but cooperate with local schools and tribes to develop the trust necessary to effectively combat community violence. It must be a coordinated effort centered on the tribe and its community ties.

Priorities Implementation

- Support federal engagement of local educators, tribal education and child welfare service directors, as well as parents and family members to increase col-

⁴Justice Policy Institute, Calculating the Full Price Tag for Youth Incarceration. December 2014

laboration for detailing local initiatives necessary for meeting community's needs.

- Reinforce successful tribal and state initiatives that are driving innovation for tribal-state collaboration, such as Jemez Pueblo collaborative meetings and New Mexico's tribal notification law that ensures that when youth from Native communities are arrested, the tribe is notified to ensure local culturally-respectful treatment and supports are provided.

IV. General Priorities

1.) *Additional ESEA Recommendation:* In addition to the priorities included above, NIEA also requests that the complete recommendations and draft language for reforming the Elementary and Secondary Education Act are included into the record.

2.) *Budget Recommendation:* NIEA also requests that our annual budget document funding requests are also entered into the record. Funding for many Native-serving programs is consistently underfunded. Only by appropriating the requested levels would the Federal Government begin to address the years of underfunding and uphold the federal trust responsibility.

3.) *Carcieri Recommendation:* It has now been six years since the devastating Supreme Court decision in *Carcieri v. Salazar*, which held that only tribes "under federal jurisdiction" in 1934 are eligible for the Indian Reorganization Act's land into trust provisions. This ruling jeopardizes the ability for all federally recognized tribes to rebuild their communities and provide critical programs, as tribal land bases are the very foundation of tribal sovereignty and economies. The legal ambiguities resulting from *Carcieri* have further delayed the already severely backlogged land-into-trust process, and have resulted in other harmful case law challenging and destabilizing land that has been held in trust for decades. As such, we continue to seek legislative relief that would return tribes to a status quo of 75 years of prior practice—restoring the Secretary of the Interior's authority to take land into trust and reaffirming existing trust lands. NIEA, in coordination with our tribal partners, urges this Committee to end the chaos that has resulted from this erroneous decision and pass a clean *Carcieri* fix.

Conclusion

NIEA appreciates the continued support of this Committee and we look forward to working closely with its members. We share your commitment to Native education. Strengthening our partnership will ensure all Native-serving schools are as effective as possible and that tribes have more access to administer education services. We must make sure federal programs provide tribes and Native-serving schools the tools necessary to improve and assist Native communities in providing services to our citizens as well as decrease instances of juvenile delinquency and violence. This effort cannot be a top-down approach, but a measure created through grassroots support at the tribal level but supported through federal programs and funding.

To achieve success, there must be collaboration among all entities that touch a Native child's life and at all levels—tribal, federal, state, and local. Only by working with all stakeholders in all education systems will we increase our students' preparedness for success and decrease the issues that lead to high dropout rates and increased juvenile delinquency in Native communities. Once again, thank you for this opportunity.

Attachments to this prepared statement have been retained in the Committee files *see:*

[http://origin.library.constantcontact.com/download/get/file/1103596296665-](http://origin.library.constantcontact.com/download/get/file/1103596296665-410/NIEA+Budget+Document.pdf)

[410/NIEA+Budget+Document.pdf](http://origin.library.constantcontact.com/download/get/file/1103596296665-410/NIEA+Budget+Document.pdf)

<http://files.ncai.org/broadcasts/2013/May/>

[Summary%20of%20Native%20Education%20Recs,%20May%202013.pdf](http://files.ncai.org/broadcasts/2013/May/Summary%20of%20Native%20Education%20Recs,%20May%202013.pdf)

The CHAIRMAN. Thank you very much for your thoughtful testimony.

Mr. Gary Davis is here as President and CEO of the National Center for American Indian Enterprise Development, in Mesa, Arizona. Thank you and we look forward to hearing from you.

STATEMENT OF GARY DAVIS, PRESIDENT/CEO, NATIONAL CENTER FOR AMERICAN INDIAN ENTERPRISE DEVELOPMENT

Mr. DAVIS. Good afternoon, Chairman Barrasso, Ranking Member Tester and Members of the Committee. I am Gary Davis, a proud member of the Cherokee Nation of Oklahoma and President and CEO of the National Center for American Indian Enterprise Development. Thank you for inviting the National Center's views on Indian Country's priorities for this Congress, focusing on economic and business development, especially recommendations that this Committee can advance.

The National Center, now in its fifth decade, is the Nation's leading and longest-serving national organization dedicated to developing American Indian self-sufficiency through business ownership. We have expanded our services to range from business and supply chain management to procurement and technical assistance for thousands of businesses nationwide that are owned by Indian tribes or American Indians, Alaska Natives or Native Hawaiians. We encourage investment in Indian Country by assisting and promoting these Native business interests in the commercial and government marketplaces, both domestic and international.

We also produce national and regional reservation economic summits and trade shows, known as RES, that attract thousands of business and tribal leaders of indigenous groups in America, Canada and other countries and Native entrepreneurs. At our upcoming National RES, March 9 through 12, we will launch our new Native Edge Business Development and Training web portal, utilizing technology and the internet to provide tremendous opportunities, receive business assistance, conduct business and trade, advertise and find procurement offerings and job openings, improve job skills and advance education and business.

We will provide far more services online than we have been able to offer over the phone or in our offices to countless more Native businesses and entrepreneurs, tribes and tribal enterprises, whenever it essential or convenient for those users to go online.

At last year's RES DC, we streamed this Committee's hearing on economic development into the conference for our participants to see and hear. In my testimony for that hearing and at the Committee-sponsored listening session on economic development at our RES Wisconsin conference on October 9th, I outlined proposals the National Center has long advanced for economic and business development in Indian Country.

Therefore today, I will limit my remarks to these categories of actions that the Committee should take to address key economic and business development priorities. Category one, committee oversight actions. Whether at the oversight hearings or letters requesting reports, the Committee should ask for essential data that might not ever come to light or even be developed or collected in the first place on these subjects. First, Buy Indian Act implementation and enforcement. Interior finally issued implementing regulations and has pledged to increase Buy Indian procurement awards by 10 percent, so we are starting to see some results. From our own RES oversight workshops on Buy Indian contract progress, we know BIA is doing good work. Less is known about IHS' use of this important contracting authority. It is reportedly sparing, at best.

We urge this Committee to hold an oversight hearing to hear specifics from Interior, BIA and IHS, including their contracting officers, on historical and current use of Buy Indian Act procedures and on increases in the number and value of procurement awards to Indian-owned economic enterprises.

A second area for oversight is the status of Native American Affairs offices at Commerce and SBA. This Committee should hold an oversight hearing on Commerce's efforts to fulfill duties prescribed by two Acts passed in 2000 as well as other authorities, to galvanize economic and business development in Indian Country. Commerce also should explain how and when it plans to expand the office dedicated to Native American business development authorized in 2000 within its own budget.

Category two, Committee recommendations on Indian program funding. These are not requests for handouts. They are requests for programs that use minimal Federal funds for maximum economic development impacts in Indian Country.

We urge the Committee to raise the following key programs in hearings and letters on the fiscal year 2016 budget request. Fifteen million dollars for the Indian Loan Guaranty Program, which leverages minimal Federal funds for a credit subsidy to facilitate substantial conventional lending for Indian economic and business development. In 2006, this Committee spearheaded a huge increase in the aggregate limit on Indian guaranteed loans from \$500 million to \$1.5 billion. However, Congress has funded this program's credit subsidy at less than \$7 million, limiting total guaranteed loans to less than \$100 million. A \$15 million credit subsidy could afford guarantees for about \$240 million in total loans.

Number two, provide \$15 million for Native CDFIs and report language on new market tax credit allocations for Indian Country. Since none of the last two rounds of NMTC allocations went to the community development entities, or CDEs that primarily or exclusively serve Indian Country, we urge the Committee to signal a desire to see a greater percentage of NMTCs allocated to CDEs that do focus on community housing, economic and business development in Indian Country.

Three, provide line item funding for the Office of Native American Affairs within Commerce's departmental management budget and SBA's budget.

Category three, legislation to achieve parity. The National Center applauds this Committee's search for proposals, vetted or new, to enhance Indian economic and business development. We recommend focus on high priority, parity-forging legislation that has gained consensus support in Indian Country to one, restore parity in trust land acquisition by passing legislation like last year's S. 2188, so that all federally-recognized Indian tribes can protect and enhance their tribal lands to attract investment, create jobs, and build self-sustaining tribal economies. The Committee might also consider proposals to make it easier to develop Indian lands to support economic development and generate self-sustaining income.

Two, reach parity and incentives for energy investment and other economic development on Indian lands, Congress should act on vetted legislation, Chairman, like your bill, to remove regulatory barriers to Indian energy and infrastructure development on Indian

lands and provide tribes more funding mechanisms to develop their energy resources.

Thank you again for inviting the National Center's testimony today.

[The prepared statement of Mr. Davis follows:]

PREPARED STATEMENT OF GARY DAVIS, PRESIDENT/CEO, NATIONAL CENTER FOR
AMERICAN INDIAN ENTERPRISE DEVELOPMENT

Good afternoon, Chairman Barrasso, Ranking Member Tester and members of the Committee. I am Gary Davis, President and CEO of the National Center for American Indian Enterprise Development, and I thank you for inviting the National Center's views on Indian Country priorities for the 114th Congress, focusing on economic and business development recommendations and specifically some that this Committee can take the lead in advancing.

The National Center, now in its 5th decade, is the Nation's leading and longest serving national organization founded to dedicate its efforts solely to developing American Indian self-sufficiency through business ownership. While maintaining that dedication, the National Center has expanded its services to range from business and supply management to procurement technical assistance for hundreds of Indian tribes and thousands of businesses nationwide, whether owned by Indian tribes or American Indians, Alaska Natives or Native Hawaiians. We encourage investment in Indian Country by assisting and promoting these Native business interests in commercial and government marketplaces, both domestic and international. We also produce national and regional Reservation Economic Summits (RES) and Trade Shows that attract thousands of leaders of tribal governments and their enterprises, businesses owned by indigenous groups in American and those from Canada and other countries, as well as Native entrepreneurs. All these folks attend our RES events because we feature training sessions, business matchmaking and extensive networking opportunities, as you can see from the agenda posted online for our National RES on March 9–12, 2015: www.res.ncaied.org/national-res-las-vegas-agenda/.

We have extended RES to regional conferences, last October in Wisconsin and last June in DC. In fact, this Committee's June 25, 2014 hearing on "Economic Development: Encouraging Investment in Indian Country," was streamed into the National Center's RES DC conference for hundreds of our participants to see and hear that important proceeding.

At our National RES this March, we will launch new web-based business development assistance through our *National Center Edge* portal, proactively utilizing technology and the Internet to provide economic opportunities, trainings, business development services, and much more, to tribes and Native businesses nationwide.

The National Center Recommendations on Economic and Business Development Priorities

My testimony at the Committee's June 25, 2014 hearing, and at the Committee-sponsored "Listening Session on Economic Development" at RES Wisconsin on October 9, 2014, detailed proposals that the National Center has long advanced for economic and business development in Indian Country. Therefore, I will limit my remarks to three categories of actions this Committee should take during the 114th Congress to address key economic and business development priorities: (1) Oversight Actions; (2) Committee Recommendations on the FY 2016 Budget for Indian Country; and (3) Legislation, primarily on parity treatment for tribal governments.

I. Committee Oversight Actions

The National Center applauds the Committee for jumpstarting its work in the 114th Congress with this hearing. Oversight can be such a powerful tool to inquire, probe and persuade to achieve desired results—without having to draft, negotiate and pass legislation. Whether through hearings or letters requesting reports, the Committee can elicit essential data that might not ever come to light, or even be developed or collected in the first place.

Subjects for helpful Oversight Hearings, or letters to federal departments and agencies, include:

A. Buy Indian Act Implementation and Enforcement

After 100 years of quasi-dormancy at the Department of the Interior, this Act's authority finally came to life with promulgation of final rules in 2013 to implement this critically important catalyst for economic, business and workforce development

in Indian Country. In 2014, Interior pledged to improve implementation and increase by 10 percent Buy Indian procurement awards and purchases from Indian economic enterprises. The National Center hosted workshops at our RES DC and Wisconsin conferences in 2014 to receive progress reports, and we will do so again at our upcoming National RES on March 11, 2015. Through our own “oversight” efforts, we have found the Bureau of Indian Affairs (BIA) to be working hard and deserving kudos for their efforts. As for the Indian Health Service (IHS), while its implementing procedures were promulgated many years earlier, they seem to be applied sparingly, at best. No IHS representative has attended our RES workshops to report on Buy Indian contracting. We urge this Committee to hold an oversight hearing and invite witnesses from Interior, BIA and IHS, including contracting officers, to report on historical and current use of Buy Indian Act procedures and on increases, if any, in the number and value of procurement awards to tribal and other Indian-owned economic enterprises. The Committee also should seek testimony on how Congress can expand the Act’s application to other federal departments and agencies that expend funds for the benefit of Indians, so as to maximize that “benefit” through contracting, purchasing and hiring that spur economic and business development in Indian Country.

The Committee’s hearings on the FY 2016 Interior/BIA and IHS budget request are other venues for asking the agencies for status reports on Buy Indian Act implementation.

B. Elevation of Two Key Native American Affairs Offices

The National Center and a dozen other national and regional organizations representing Indian Country interests have long urged the elevation and enhancement of the Office of Native American Affairs within the Department of Commerce and the Small Business Administration (SBA). This Committee should hold an oversight hearing on the respective efforts of Commerce and SBA to address Indian Country’s economic and business priorities.

Several federal departments now operate a high level Office of Native American Affairs or Tribal Relations, with its own budget, to promote and support economic and business development in Indian Country. It is past time for such Offices at Commerce and SBA to be elevated and provided their own budgets. In 2000, Congress passed two laws to deploy Commerce’s robust economic, business, trade and tourism promotion programs to advance Indian Country’s interests:

- The Indian Tribal Regulatory Reform and Business Development Act (Public Law 106–447), directing the Commerce Secretary to establish a Regulatory Reform and Business Development on Indian Lands Authority to identify and remove obstacles to investment, business development, and wealth creation in Native communities.
- The Native American Business Development, Trade Promotion and Tourism Act (Public Law 106–464), codifying an existing office with a new name, the Office of Native American Business Development. The Act prescribes duties for the Office Director to fulfill, including to: (1) ensure intra- and inter-agency coordination of federal programs assisting business and economic development, and expansion of trade; (2) carry out a Native American export and trade promotion program; (3) conduct a Native American tourism program; and (4) report annually to the Senate Committee on Indian Affairs and House Committee on Natural Resources on the operation of the Office and any recommendations for legislation deemed necessary.

Commerce Secretaries have ignored the first Act above, and only intermittently implemented the second Act, despite repeated requests by the National Center and many other Native American organizations for elevation and specific funding of the Office of Native American Business Development to address these Acts’ requirements. Last year, legislation (H.R. 4699) proposed to amend the second Act to require the Secretary to report to this Committee (and its House counterpart) on recommendations for promoting the sustained growth of the economies of Indian tribes and Indian lands. Instead, your Committee should hold a hearing or listening session to hear what the Commerce Department has done since 2000 to honor the intent of these two Acts and how and when it plans to expand and fund the Office of Native American Business Development to fulfill the duties prescribed by these Acts.

As for the SBA, it deserves credit for establishing an Assistant Administrator for Native American Affairs and increasing funding for “Native American Outreach.” Several bills in past Congresses have proposed to elevate the position to Associate Administrator with grant-making authority. At a minimum, the Office should have

its own budget, with line item funding, in place of the current “Native American Outreach” line item.

II. Committee Recommendations on Indian Program Funding

In past years, this Committee has held hearings on the President’s Budget Requests and has submitted letters to the Senate Budget and Appropriations Committees making recommendations on funding levels for programs that advance Indian Country’s priorities. This Committee involvement on budget priorities has always been important to Indian Country and to the other Committees’ members and staff responsible for drafting budget resolutions, appropriations bills and other legislation. My June, 2014 testimony outlined a number of funding requests to address Indian Country’s economic and business priorities. Below are some key programs where minimal increases in federal funding would have maximum leveraging effect in expanding access to capital and generating more economic, business and community development in Indian Country. The National Center urges the Committee to raise the following key programs in relevant budget hearings and letters on the FY 2016 budget requests:

A. Department of the Interior

1. Up to \$25 Million for Interior’s Office of Indian Energy and Economic Development

At this funding level, this Office (OIEED) could: (1) speed the HEARTH Act’s implementation; (2) assist tribes in developing environmental codes and other tribal ordinances for leasing tribal lands for energy and economic development projects; (3) provide grant funding for business plans or feasibility studies for tribal business and economic development projects; and (4) provide more technical assistance (including guidance on preparing business plans, repairing credit records, and completing loan applications) and expand the scope of the Indian Loan Guarantee Program (discussed below) to finance more business operations/expansions, provide standby letters of credit to attract needed surety bonding, and finance start up energy and economic development projects.

2. \$15 Million for the Indian Loan Guarantee Program

Overseen by OIEED, the Indian Loan Guarantee Program and loan subsidy program have incredible potential to leverage a small federal investment to facilitate substantial conventional lending for businesses and economic development projects. BIA-certified lenders lend to Tribes and Indian businesses on reservations and submit to tribal court jurisdiction (whereas SBA-certified lenders must adjudicate any loan defaults in federal court). OIEED also operates a revolving credit facility (SBA has no such support) that assists Indian borrowers with lines of credit for working capital, payrolls for hiring new employees, and assurances sufficient for sureties to provide performance bonds to tribal- and other Native-owned contractors. This kind of support facilitates Buy Indian Act contracting. In 2006, recognizing this program’s potential, Congress authorized a huge increase in the aggregate limit on Indian guaranteed loans from \$500 million to \$1.5 billion. However, FY 2015 funding for the program’s credit subsidy is less than \$7 million, limiting the total loan principal to only about \$100 million. By increasing the credit subsidy to a modest \$15 million, upwards of \$250 million in total loan principal could be guaranteed.

B. Department of the Treasury, Community Development Financial Institutions Fund

1. \$15 Million for Native Community Development Financial Institutions (CDFIs)

Indian Country has greatly benefitted from the Native Initiative of the CDFI Fund through expanded access to capital for individuals and small businesses. The initiative funds Native CDFIs to provide micro loans and facilitates financial literacy and entrepreneurial development training in Native communities across the country. This program is another great example of how a modest federal investment catalyzes greater capital access in Indian communities.

2. Report Language on New Market Tax Credit Allocations For Indian Country

The CDFI Fund also oversees the New Market Tax Credits (NMTC) Program that makes NMTC allocations to Community Development Entities (CDEs) to help finance projects in low-income urban neighborhoods and rural communities lacking access to capital needed to support and grow businesses, create jobs and sustain healthy local economies. In the past, NMTC allocations have helped finance projects in Indian Country, but none of the last two rounds of allocations went to the CDEs that primarily or exclusively serve Indian Country. Since the CDFI Fund is open to making some adjustments, we urge the Committee to signal a desire to see a greater percentage of the NMTCs allocated to CDEs that focus on community, hous-

ing, economic and business developments in Indian Country. (See further discussion in Legislative recommendations below.)

C. Funding Federal Offices of Native American Affairs and Tribal Relations

As I explained in my testimony last June, broader federal attention to Indian Country occurred after more Cabinet departments and key federal agencies established Offices with that focus (e.g., HUD's Office of Native American Programs, USDA's Office of Tribal Relations, DOE's Office of Indian Energy Policy and Programs, the FCC's Office of Native American Affairs and Policy, and SBA's Office of Native American Affairs). Each of these key Offices deserve increases or at least level funding for FY 2016. We ask the Committee to endorse these specific recommendations:

1. Rename the SBA's line item for "Native American Outreach" to read "Office of Native American Affairs" and provide up to \$2 Million for that important Office; and
2. Provide line item funding of \$1 Million for an Office of Native American Affairs within Commerce's Departmental Management budget.

III. Legislation to Achieve Parity

The needs in Indian Country remain so great that provisions to achieve parity could be included in just about any federal program for grant or cooperative agreement assistance, formula funding, and other federal expenditures, including tax expenditures. Rather than advocate that approach, the National Center recommends more targeted focus on parity-forging legislation that has been previously proposed and vetted, perhaps reported out of committee, or has gained consensus support in Indian Country. Below are high priorities that the Committee can examine by holding its own hearings or joint hearings with other committees, and otherwise promote consideration of proposals in these areas:

1. *Restore Parity in Trust Land Acquisition*: As noted in my previous testimony, all federally recognized Indian tribes must be able to protect and enhance their tribal lands to attract investment, create jobs and build self-sustaining tribal economies. This Committee should lead the charge to enact legislation (like last year's S. 2188) to clarify the Interior Secretary's authority to acquire land in trust for any federally recognized tribe so as to remedy confusion and harmful impacts stemming from the U.S. Supreme Court's decision in *Carcieri v. Salazar*. The Committee also should consider holding a hearing or listening session on proposals designed to facilitate investment in projects on Indian lands, such as last year's H.R. 2718, cosponsored by Congressmen Don Young and Tom Cole, to empower tribes to accept restricted fee tribal lands to spur economic development and generate self-sustaining income.

2. *Infuse Parity in New Market Tax Credit Allocations for CDEs Serving Indian Country*: In the last two distributions of NMTC allocations, the CDFI Fund did not allocate any NMTCs to a Community Development Entity (CDE) with a primary mission of serving Native Communities. Lack of NMTCs has reduced urgently needed financing for business and community development projects in Native communities across the country. Capital can be better deployed in Indian Country projects if NMTCs are allocated to qualified CDEs whose primary mission is to invest in Native communities and who possess the required cultural competency and understanding of relevant legal and financial complexities involved. Proposals should be considered to make NMTC authority permanent and to set aside 10 percent of any future NMTC allocations for qualified CDEs whose primary mission is to serve Indian Country.

3. *Reach Parity in Incentives for Energy Investment/Development on Indian Lands*: In numerous energy-related workshops hosted at our National RES and regional RES conferences, there has been great interest in development of renewable and conventional energy resources, and the related potential for workforce and economic development. Congress should act on vetted legislation (like last year's S. 2132) to remove regulatory barriers to energy and infrastructure development on Indian lands and streamline approval processes for rights-of-way. Congress also should extend existing tax credits that support economic development in Indian Country, and consider legislation to provide more funding mechanisms to develop energy resources on Indian lands, such as allowing transfer of tax credits for production from renewable resources.

4. *Ensure Parity in Tax Treatment*: Just as Congress moved toward treating tribes more like state and municipal governments by enacting the Tribal Economic Development Bond authority, any future action on tax reform or any other tax legislation must include language: (a) eliminating the "essential governmental function" test for issuance of tribal tax exempt debt; and (b) treating tribal governments as taxing authorities in any provisions for collection of remote sales taxes (i.e., in parity with

state and local governments). As sovereigns, tribes must be able to exercise the right to collect tax revenues to provide for their members, promote business and job creation, and offer tax advantages to attract outside investment necessary to build their tribal economies.

Once again, thank you, Mr. Chairman, and the Committee for the opportunity to present testimony and recommendations on behalf of the National Center. We urge the Committee to consider and act on these issues promptly.

The CHAIRMAN. Thank you very much, Mr. Davis. I think a couple of things. One is that you may receive more written questions than most hearings, because we may run out of time to actually ask questions. Since you used the phrase listening sessions in your testimony, if we do head to vote, we will adjourn this meeting but the staff will continue with you, if you have the time to stay here, and we can conduct a listening session then for additional information. So I appreciate it.

Next is Ms. Stacy Bohlen, Executive Director of the National Indian Health Board. So nice to see you again. Welcome to the Committee. I look forward to your testimony.

**STATEMENT OF STACY BOHLEN, EXECUTIVE DIRECTOR,
NATIONAL INDIAN HEALTH BOARD**

Ms. BOHLEN. Thank you, Chairman, and congratulations on officially becoming the Chairman and officially becoming the Vice Chairman, Senator Tester.

My name is, as you said, Stacy Bohlen. I am a proud member of the Sault Ste. Marie Tribe of Chippewa Indians in Michigan. I have been the Executive Director of the National Indian Health Board for about 10 years. I am very proud to be here today and be part of this proceeding on behalf of the National Indian Health Board. Chi-miigwetch, many thanks to the Committee for taking the time to listen and engage with us.

Our organization was founded by the tribes over 40 years ago. And like what you said, we are in our fifth decade. Advocating for the improvement of American Indian and Alaska Native health is the sole work that the National Indian Health Board does. And we are the only national organization solely devoted to that work.

As you know, our people continue to live sicker and die younger than other Americans. Our life span is 4.2 years less than other Americans and on some reservations, unfortunately Northern Arapaho is one of them, life expectancy is only 49 years. We experience significantly higher mortality rates from accidents, alcoholism, suicide, cancer, influenza, maternal deaths and many times we have to struggle against the tide of poor funding, poverty and cultural barriers that impact health.

We must stand together to change these realities. In 2013, the Indian Health Service per capita expenditures for health care was just \$2,849 per Indian person, compared to \$7,717 per person for health care spending nationally. Despite the historic increases that Congress has shepherded through and the Administration has supported, the IHS budget is still only funded at 59 percent of need. Budgets do not contain increases for medical inflation, contract support costs, contract health services or Purchased Referred Care, and sequestration cuts. Despite valiant efforts, we just were not able to move forward. And we can change that.

Even when other programs supporting vulnerable populations for health care, like Medicaid, Medicare and the Veterans Administration were exempt from sequestration cuts across the board, the Indian Health Service was not. That cost \$220 million to the system in 2013. That is just not acceptable. And we look to work with you to end the sequestration, not just for health programs in Indian Country, but for all programs in Indian Country.

In addition, there are two important legislative changes that could help the tribes to overcome some of these budgetary challenges. The first is establishing Medicare-like rates for Purchased Referred Care for non-hospital-based services. This was recommended by the Government Accountability Office in 2013. And IHS is the only Federal health provider not already paying these rates. The agency could save millions if the Indian Health Service was paying provider rates consistent with existing Federal policy.

This is real challenge that we saw in the State of Montana with the orthopedic surgeons. We tried to work very hard to overcome it. It was impossible at that time.

If Medicare-like rates were applied to the Indian Health Service they could provide an estimated 253,000 extra patient visits per year through a program that is at least \$800 million short every year. Another important breakthrough would be establishing advance appropriations for the Indian Health Service, much like the Veterans Administration. This means that Congress would enact IHS funding a year ahead of time. That money could not be spent until the year for which the funding was intended.

For example, tribes could spend funds appropriated in 2016 only in 2017. This means that tribes would not have to wait on short-term continuing resolutions every year to make long-term decisions with only short-term money.

For example, in Alaska, heating oil is a major expense to the Alaska health care system. We all know from having to heat our own homes, it is cheaper to buy heating fuel or whatever our needs are in bulk. In Alaska, this is also clearly the case. And if that is able to be done in September, before the rivers freeze, that oil can be shipped by barge.

But if you have to wait until November, until the spring, to do so, the oil has to be flown into the villages. Along with increased costs of buying oil on a piece-meal basis, when continuing resolution money is finally freed up, the shipping just dramatically increases the cost.

Advance appropriations won't solve these complex issues, but it would certainly be a substantial and important step forward.

Even with legislative actions, it is important to note that many of our disparities, like alcoholism, substance abuse, suicide being the number two cause of death of our youth and children, injuries, these are treatable and preventable circumstances and occurrences. But they are often overlooked in the Indian health care delivery system, because it doesn't have the capacity nor is it designed to operate that way.

I would also like to talk about a very important issue of alleviation of the tribal employer mandate for the Affordable Care Act. But I see that my time has expired, so I look forward to extending my remarks if I may. Thank you very much.

[The prepared statement of Ms. Bohlen follows:]

PREPARED STATEMENT OF STACY BOHLEN, EXECUTIVE DIRECTOR, NATIONAL INDIAN HEALTH BOARD

Chairman Barrasso, Vice Chairman Tester, and Members of the Committee, thank you for holding this important hearing on Indian Country Priorities for the 114th Congress, and for including the National Indian Health Board (NIHB)¹ in this important hearing to detail some of the top Indian health priorities for the next Congress. On behalf of the NIHB and the 566 federally-recognized Tribes we serve, I submit this testimony.

The federal promise to provide Indian health services was made long ago. Since the earliest days of the Republic, all branches of the federal government have acknowledged the nation's obligations to the Tribes and the special trust relationship between the United States and American Indians and Alaska Natives. The United States assumed this responsibility through a series of treaties with Tribes, exchanging compensation and benefits for Tribal land and peace. The Snyder Act of 1921 (25 USC 13) legislatively affirmed this trust responsibility. As part of upholding its responsibility, the federal government created the Indian Health Service (IHS) and tasked the agency with providing health services to AI/ANs. Since its creation in 1955, IHS has worked to fulfill the federal promise to provide health care to Native people.

In passing the Affordable Care Act (ACA), Congress also reauthorized and made permanent the Indian Health Care Improvement Act (IHCIA). As part of the IHCIA, Congress reaffirmed the duty of the federal government to American Indians and Alaska Natives, declaring that "it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians -- to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy."²

But despite these promises, our people continue to live sicker and die younger than other Americans. We experience significantly higher mortality rates from alcoholism, suicide, cancer, influenza and maternal deaths. Ninety percent of AI/AN children suffer from dental caries by the age of eight, compared with 50 percent for the same age in the US all races population. Our children ages 2 to 5 have an average of six decayed teeth, when children in the US all races population have only one. Devastating health risks from historical trauma, poverty and a lack of adequate treatment resources also continue to plague Tribal

¹ The National Indian Health Board (NIHB) is a 501(c)(3) not for profit, charitable organization providing health care advocacy services, facilitating Tribal budget consultation and providing timely information and other services to all Tribal Governments. Whether Tribes operate their own health care delivery systems through contracting and compacting or receive health care directly from the Indian Health Services (IHS), NIHB is their advocate. Because the NIHB serves all federally-recognized tribes, it is important that the work of the NIHB reflect the unity and diversity of Tribal values and opinions in an accurate, fair, and culturally-sensitive manner. The NIHB is governed by a Board of Directors consisting of representatives elected by the Tribes in each of the twelve IHS Areas. Each Area Health Board elects a representative and an alternate to sit on the NIHB Board of Directors.

² Indian Health Care Improvement Act, §103(2009).

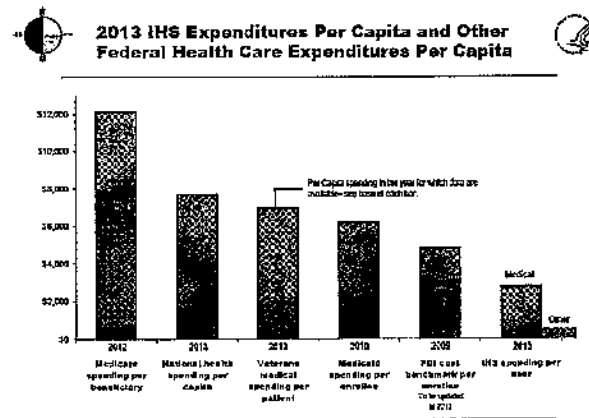
communities. According to IHS data, 39 percent of AI/AN women experience intimate partner violence, which is the highest rate of any ethnic group in the United States.

America is too great a nation to stand idly by while AI/ANs live with these realities. The 114th Congress offers many opportunities to achieve real, meaningful change for Indian Country. Not moving to work on some of these issues would be tacit approval of the state of affairs in Indian Country. In the following testimony we will offer some legislative solutions but also suggestions for increases oversight over the Indian health system.

Legislative Opportunities

Mandatory Appropriations for the Indian Health Service

In 2013, the IHS per capita expenditures for patient health services were just \$2,849, compared to \$7,717 per person for health care spending nationally. Despite the historic increases that Congress has given to the IHS budget over the last several years, funding discrepancies unambiguously remain. Budgets have not even kept up with medical inflation, contract support cost needs, and sequestration cuts. We are never able to move forward. NIBB testified before the committee on upcoming budget priorities on March 26, 2014, and noted that for FY 2016 Tribes are requested \$5.4 billion for the IHS. Full funding would be \$28.7 billion and is practically achievable in a twelve year phase-in plan. We will continue to be engaged on the specifics of the Tribal health budget as Congress considers these appropriations in coming months.



We realize that it is highly unlikely that Indian health will receive the funding it needs by continuing to chase ever dwindling discretionary dollars. Instead, the Indian Health Service should be treated like the obligation it is, and the Congress should move IHS funding to the mandatory side of the federal budget.

As noted above, the requirement to provide funds for IHS has been long-established by over 200 years of American history. AI/ANs made sacrifices for this country that *require* the government to provide health care for our people, but with competing forces in the discretionary budget, the funds have never been realized to achieve this.

Moving IHS to the mandatory side of the federal budget would stabilize the IHS budget and ensure that the care that AI/ANs need is always guaranteed. For example, Indian Country would not have to wait months to know when it will get its funding for the next fiscal year. Tribes and the IHS facilities find it very difficult to plan and execute budgets by waiting for continuing resolutions (CRs). Additionally, the instability of the discretionary funding process continues to put the lives of AI/ANs at risk. Over the last several years we have been fortunate enough to have a supportive Congress and President when it comes to Indian health. However, that future is far from certain. Any change in government could reverse this trend and our people will suffer by not getting the surgeries, dental care, diabetes care or other treatments they need.

As we look toward FY 2016, we nervously await the possibility of across-the-board sequestration. As the Committee is well aware, the IHS budget lost \$220 million due to sequestration in FY 2013. Unlike mandatory programs, (or other direct health programs like the Veterans' Health Administration) IHS was subject to the full 5.1% sequester. Congress did specifically hold the IHS to 2 percent, but a quirk in the way the law was written caused sequestration to occur for IHS. The tragedy of sequestration in Indian Country was a clear denial of the federal trust responsibility to Tribes and our communities became, yet again, an unfortunate victim of unrelated political battles in Washington.

We implore you – do not let the same thing happen in FY 2016. **If sequestration cannot be avoided in FY 2016, this committee must show leadership in ensuring that the IHS is not subject to sequestration.** This exemption should be permanent, just as the federal trust responsibility to Indian Country. Even two percent is too much.

Support for Advance Appropriations for the Indian Health Service

Realizing that mandatory funding for the IHS could be a multi-year effort, NIHBS reiterates its support for Advance Appropriations for the Indian Health Service. In the 113th Congress, Senator Lisa Murkowski (R-AK) introduced legislation to provide advance appropriations for the IHS and we hope to see continued action on this during the 114th Congress. An advance appropriation is funding that becomes available one year or more after the year of the appropriations act in which it is contained. For example, if the FY 2017 advance appropriations for the IHS were included in the FY 2016 appropriations bills, those advance appropriations would not be counted against the FY 2016 funding allocation but rather, against the FY 2017 allocation. While this tactic will not solve the complex budget issues at IHS, it will be an important first-step in ensuring that AI/ANs receive the health care they deserve. Advance appropriations would allow Indian health programs to effectively and efficiently manage budgets, coordinate care, and improve health quality outcomes for AI/ANs.

As we saw in the FY 2014 with the government-wide shutdown, failure to fund critical health care needs for AI/ANs was a thoughtless consequence of this unrelated political battle. Since FY 1998, there has been only one year (FY 2006) when the Interior, Environment, and Related Agencies budget, which contains the funding for IHS, has been enacted by the beginning of the fiscal year. The lateness in enacting

a final budget during that time ranges from 5 days (FY 2002) to 197 days (FY 2011). These delays make it very difficult for IHS/ Tribal/ or Urban (I/T/U) Indian health sites to adequately address the health needs of AI/ANs. Though IHS is a mandatory obligation that the government has made, it is still a discretionary program. That's the reality we live in. So we are asking this Congress to stand up for us and enact Advance Appropriations for the IHS – just as it did for several Veterans' Administration programs last December as part of the Consolidated and Further Continuing Appropriations Act of 2015 (P.L. 113-235).

In FY 2010, the Veterans Health Administration (VHA) achieved advance appropriations. IHS, like the VHA, provides direct medical care to fulfill legal promises made by the federal government. In the 111th Congress, which ultimately enacted the advance appropriations for the VHA, the House bill (H.R. 1016) had 125 bi-partisan cosponsors. The Senate bill (S. 423) had 56 co-sponsors. Importantly, the Congressional Budget Office ruled at the time that the act “would not affect direct spending or revenues.”

IHS, like the VHA, provides direct care to patients as a result of contractual obligations made by the federal government. To NIH and Tribes, enacting advance appropriations for IHS is a civil rights issue and a matter of equality. Like Veterans, Tribal communities have made sacrifices for this country, both historically and contemporarily. However, under the current funding mechanism, AI/ANs do not have the same stability in the care they are provided.

Continuing resolutions mean that Tribal health programs are left to make long-term decisions with only short-term money guaranteed. Often programs must determine whether and how they can enter into contracts with outside vendors and suppliers, plan programmatic activities, or maintain current personnel. In July 2014, Tim Schuerch, President/ CEO of the Maniilaq Association, an Alaska Native Corporation, testified before the House Natural Resources Subcommittee on American Indian and Alaska Native Affairs that continuing resolutions result in higher supply prices. For example, heating oil is a major expense for this provider, but it is cheaper if you buy in bulk in September, rather than buying in bits and pieces as continuing resolutions come out from Congress. In September, the oil can be pulled in by barge, but by November or December the oil must be flown in which dramatically increases the cost. Indian health budgets operate on the margins and CRs make this situation even worse. No private health provider would operate this way, and IHS/ Tribal/ or Urban (I/T/U) Indian health sites should not have to either.

Tribes and organizations across the country support advance appropriations for IHS. In June 2014, the American Medical Association's House of Delegates passed a resolution supporting Advance Appropriations for the Indian Health Service. NIH has also submitted resolutions and letters from the National Indian Health Board, National Congress of American Indians; United South and Eastern Tribes; the California Rural Indian Health Board; Alaska Native Health Board; Midwest Alliance of Sovereign Tribes; the Northwest Portland Area Indian Health Board; the Oklahoma City Area Inter-Tribal Health Board; the Inter Tribal Council of the Five Civilized Tribes; and the Three Affiliated Tribes.

Advance appropriations will undoubtedly require significant changes in the way Congress and the Administration develop the IHS budget. But we believe that it will be worth it. The change will not cost any money, and it will not cede Congressional budget authority to the Administration. What Advance appropriations for IHS will do is put the Indian health system in a more stable position and thereby improve the continuity of care for Native Peoples.

Medicare Like Rates for Purchased/ Referred Care

One common-sense solution to enable IHS funds to go further is for Congress to enact legislation that would require that purchased/referred care (PRC) reimbursements to non-hospital providers are made at "Medicare Like Rates (MLR)."³ In 2003, Congress amended the Medicare law to authorize the Secretary of Health and Human Services to establish a rate cap on the amount hospitals may charge IHS and Tribal health programs for care purchased from hospitals under the PRC program. However, hospital services represent only a fraction of the services provided through the PRC system. The IHS PRC program may be the only federal government entity that does so. For example, neither the Veterans' Administration nor the Department of Defense pay full billed charges for health care from outside providers.

On April 11, 2013, the Government Accountability Office (GAO) issued a report³ that concluded "Congress should consider imposing a cap on payments for physician and other nonhospital services made through IHS's [PRC] program that is consistent with the rate paid by other federal agencies." We agree: these savings would result in IHS being able to provide approximately 253,000 additional physician services annually and a program savings of over \$100 million. With discretionary budgets getting smaller and smaller we believe that this small change would bring parity to the IHS referral system with other health providers. In addition, it would help alleviate the approximately \$800 million shortfall that PRC sees each year.

In December 2014, the IHS issued a proposed rule that would require Medicare-Like Rate payments for non-hospital based services. Tribes are still formulating a specific response to this rule, but we believe the enactment of legislation will make this provision stronger and more effective. NIHB and Tribes encourage Congress to swiftly enact the legislative change to make PRC subject to Medicare Like Rates for all non-hospital providers and suppliers.

Employer Mandate in the Affordable Care Act

American Indians and Alaska Natives (AI/AN) are exempt from the Individual Mandate to purchase health insurance. This is in recognition of the fact that AI/ANs should not be forced to purchase healthcare that is obligated by the federal government's trust responsibility and which is delivered through the Indian Health Service (IHS). However, Tribal employers (whose employees are often also Tribal members) are subject to the Employer Shared Responsibility Mandate, which says that employers, with 50 or more full-time employees or full time equivalent employees, must offer insurance to their employees or pay a tax penalty.

Applying the employer mandate to Tribal employers directly undercuts the ACA's Indian-specific protections in three ways. First, it punishes Tribes for assisting AI/AN enrollment in the Marketplaces, despite the multiple ACA provisions designed specifically to encourage such activities. Second, it can disqualify AI/ANs from eligibility for premium tax credits in Marketplace plans, thus leaving them unaffordable. Third, it ignores the fact that AI/ANs are exempt from the individual mandate and forces Tribal employers to pay for AI/AN insurance plans as a proxy for the individual. None of these outcomes benefit Tribal employers, individual AI/ANs, or the federal government.

³ GAO-13-272: "Capping Payment Rates for Nonhospital Services Could Save Millions of Dollars for Contract Health Services," April 11, 2013.

The ACA contains several provisions designed to maximize AI/AN participation in Marketplace plans: for example, Indian-specific cost-sharing protections that help defray the cost of health coverage, special AI/AN enrollment periods, and the ability for Tribes to assist with Marketplace plan premium payments for Tribal members. Many Tribes and Tribal organizations have aggressively sought to facilitate AI/AN enrollment in Marketplace plans in order to take advantage of these protections. However, the employer mandate actively discourages AI/AN Marketplace participation, in direct contradiction to the provisions described above.

If a Tribe does offer employer coverage, AI/AN employees will almost certainly be personally responsible for paying premium costs, deductibles, co-payments, and co-insurance. Eligibility for IHS services acts as a natural disincentive for AI/AN enrollment in any insurance plan (employer sponsored or otherwise). Congress incentivized AI/AN Marketplace participation through the availability of premium tax credits. For AI/ANs, various types of Indian-specific income is excluded, thus leaving it comparatively easier for AI/ANs to qualify for subsidies and making many individual Marketplace plans significantly more affordable than employer sponsored coverage for AI/ANs. However, employees are automatically disqualified from tax credit eligibility upon receiving a qualifying offer of coverage from their employer. As a result, even if a Tribal Employer provides insurance that is less affordable or comprehensive than a plan available through the individual Marketplace, the mere offer of coverage eliminates the ability of AI/ANs to obtain tax credits from the Marketplace.

The employer mandate forces Tribes to divert funding necessary to sustain Tribal health programs, which by right should come from the federal government, and redirect it to the purchase of employee health insurance. In these circumstances, the employer mandate essentially results in Tribes funding the federal government: either they take their limited Tribal funding (some or all of which might be federal funding anyway) and pay it to the IRS in the form of a tax penalty, or they purchase insurance from private companies, which then pay IHS, after the insurance company keeps between 15-20% of the premium payments off the top. Tribal subsidization of the United States does not respect either the trust responsibility or the government-to-government relationship between Tribes and the United States.

Compliance with the employer mandate forces Tribes to either absorb the cost of employee health insurance or else pay non-compliance penalties of up to \$2,000 per year per full-time employee. Not only is this potentially devastating for Tribes that are already faced with significant financial hardships, but it fails to recognize the fundamental distinction between Tribal employers and private businesses.

Tribes are sovereign, governmental entities that are directly responsible for the health and welfare of their people, and are often the only major employers in Tribal territories. Forcing Tribes to pay millions of dollars in penalties – or, alternatively, to purchase costly insurance for Tribal member employees who are otherwise exempt from the individual mandate and eligible for IHS services – will not just affect Tribal business decisions concerning hiring or expansion, but will directly limit their ability to provide basic social, health, safety, and other governmental services on which their members and other reservation residents rely. Tribes cannot “pass on” the costs of compliance by raising prices on goods or services. Tribal governmental funding is a zero sum game, and any funding used to either comply with the mandate or pay the penalties will necessarily come from coffers used to provide what may be the only constituent services for hundreds of miles.

The ACA employer mandate creates a no-win situation for Tribal governments, forcing them to either pay for the cost of insurance for Tribal member employees who are otherwise exempt from having to obtain coverage, or pay a tax penalty in order to ensure that Tribal member employees qualify for the benefits and protections to which they are entitled. The mandate discourages Tribes from facilitating AI/AN Marketplace enrollment, requires Tribes to pay an individual mandate penalty by proxy on behalf of its AI/AN employees, and precludes AI/AN eligibility for tax credits. The mandate also acts as a federal directive that many AI/ANs pay for their health care in circumvention of the trust responsibility. Finally, the mandate is unaffordable for many Tribes, as Tribes will pay for both the penalties and the insurance payments with already-scarce resources that would be far better allocated towards funding direct Tribal services and programs. We therefore ask for a Tribal exemption to the Employer Mandate.

Definition of Indian in the Affordable Act

As NIHBS testified previously, we urge Congress to enact a legislative "fix" for the Definition of Indian in the Affordable Care Act. The "Definitions of Indian" in the ACA are not consistent with the definitions already used by the Indian Health Service (IHS), Medicaid and the Children's Health Insurance Plan (CHIP) for services provided to American Indians and Alaska Natives. The ACA definitions, which currently require that a person is a member of a federally recognized Tribe or an Alaska Native Claims Settlement Act (ANCSA) corporation, are narrower than those used by IHS, Medicaid and CHIP. This thereby excludes a sizeable population of AI/ANs that the ACA was intended to benefit and protect. Unless the definition of Indian in the ACA is adjusted to match other definitions used by IHS and CMS, many AI/ANs will not be able to receive the special protections and benefits intended for them in the law. This would essentially create a class of "sometimes Indians" who are eligible for IHS and other benefits but not those in the ACA. Both Congressional partners and the Administration have acknowledged that this was not the intent of the law, and we hope that this committee can take leadership on this issue in the 114th Congress.

Renewal of the Special Diabetes Program for Indians

As part of the Balanced Budget Act of 1997, Congress established the Special Diabetes Program for Indians (SDPI) to address the growing epidemic of Type 2 diabetes in American Indian and Alaska Native (AI/AN) communities. The Special Diabetes Program for Type 1 Diabetes (SDP) was established at the same time to address the serious limitations in Type 1 diabetes research resources. Together, these programs have become the nation's most strategic, successful and comprehensive effort to combat diabetes. SDPI is transforming lives and changing the diabetes landscape in America.

According to the Centers for Disease Control and Prevention (CDC), AI/AN adults have the highest age-adjusted prevalence rate of diagnosed diabetes compared to other major racial and ethnic groups at 16.1 percent. By comparison, this is almost twice the rate for the total U.S. adult population. Some regions of Indian Country have diabetes rates as high as 33.5 percent, with specific communities having Type 2 diabetes reach a level as high as 60 percent.

But SDPI is working to overcome these challenges. Between 1995 and 2006, the incidence of End-Stage Renal Disease in AI/AN people with diabetes fell by nearly 28 percent – a greater decline than any other racial or ethnic group. ESRD costs Medicare over \$80,000 per patient per year. The average blood sugar level, as measured by the hemoglobin A1C test, decreased from 9.0 percent in 1996 to 8.1 percent in 2010. Every percentage drop in A1C results can reduce risk of eye, kidney, and nerve

complications by 40 percent. These positive preventative health outcomes help bend the medical cost curve and not only save lives but federal dollars.

Today, SDPI is funded at a level of \$150 million per year and supports 404 diabetes treatment and prevention programs in 35 states. With funding for this critical program set to expire on September 30, 2015, Tribes are requesting a renewal of this program of \$200 million/ year for 5 years. While we understand an increase in funds during this budgetary environment is difficult, SDPI has been level-funded since 2002. This represents an effective decrease. Calculating for inflation, \$150 million in 2002 would be about \$115 million in 2014 – or 23 percent less. In order to keep the momentum of this important program alive, it is critical that Congress continue to invest in SDPI, which will save millions in preventative care over the long term. When taking into account additional Tribes that have gained federal recognition since 2002, the dollars are even scarcer.

NIHB wishes to express its gratitude for the work that members of this committee have done so far to support renewal of SDPI. With the deadline of September 30th in mind, I urge you to support a multi-year reauthorization of the SDPI by March 31st of this year. We have a critical opportunity to see the program renewed by March 31, when Congress must renew the “Medicare Extenders” as part of the “Sustainable Growth-Rate Fix.” This has typically been the legislative vehicle for SDPI renewals. Without an immediate, long-term reauthorization, critical infrastructure that the Tribes have built to address the diabetes epidemic in Indian Country has greatly contributed to the success of SDPI will be lost.

Oversight opportunities

In addition to considering the aforementioned legislative proposals, this committee has important oversight role for many of the issues and challenges affecting Indian Country. When it comes to health there are many challenges that merit some additional oversight for this committee, but we have chosen to highlight several of our top priorities for the purpose of this statement.

Implementation of the Affordable Care Act

The ACA recognizes the federal trust responsibility to provide healthcare for AI/ANs through its special provisions that outline protections for them. These special provisions include:

- Indian-specific cost-sharing protections that help defray the cost of health coverage
- Special AI/AN enrollment periods
- The ability for Tribes to assist with Marketplace plan premium payments for Tribal members
- An exemption for enrolled members in a federally recognized Tribe to the individual mandate to purchase insurance.

The Center for Consumer Information and Insurance Oversight (CCIO) oversees the implementation of ACA provisions related to private health insurance and is charged with working to establish Health Insurance Marketplaces. These Health Insurance Marketplaces operate call centers and help desks to respond to consumer questions about the ACA. In addition, CCIO has been tracking AI/AN enrollment in the Marketplace and to better facilitate our data tracking efforts, we have made repeated requests to CCIO for this data and it has not been made available. Without this data, Indian Country has no clear understanding of what impact the ACA is having on AI/ANs.

The current call centers have proven to be inadequate at answering questions related to the special benefits and protections available to AI/ANs and have often caused greater confusion and application errors. There are still thousands of exemption applications that have yet to be processed with no discernible reason as to what the problems are. A large portion of those applications that have been processed, have been processed incorrectly and require prompt resolution so that AI/ANs can be issued exemption certificate numbers. These problems have all contributed to low enrollment, as many AI/AN are still confused about the benefits of the ACA and see no reason to sign up. We request that CMS provide their call center or help desk staff with better training on AI/ANs protections and provisions of the ACA. NIHB has also advocated for the creation of an AI/AN specific help desk where AI/AN callers would be redirected. This helpdesk would be better equipped to answer questions for AI/AN customers. In addition, an AI/AN call center would be more culturally sensitive and in certain cases, linguistically equipped to answer calls where the caller only speaks their native language. Our request for an AI/AN call center has gone unanswered at CMS, despite the fact that the Administration has developed call centers for other minority groups (like native Spanish speakers), who the federal government does not have a special trust responsibility towards. AI/ANs, not only speak languages other than English, but the law applies to them in a completely different way, thereby increasing the need for a native-specific call center.

For more than a year, NIHB and its partners in the Tribal Technical Advisory Group (TTAG) to CMS, have made repeated requests for access to current AI/AN enrollment data. Instead, the only data that has been made available has been data from 2011 and that data has been shown to be inaccurate and incomplete. Finally, in September of 2014, a formal letter was written to Marilyn Tavenner, Director of CMS, to request the data yet again. This time Technical Advisors to CMS and NIHB had a conference call with the data team from CCHIO. We were assured that our data request would be delivered in October. In October, we followed up with CMS and were told that the data request was taking longer than anticipated and would be available in December. We once again asked for the data in December and were told that in January it would be ready. Here we are today and we still do not have the data.

We therefore request that Congress intercede with CMS and CCHIO, fulfill its trust obligations in providing healthcare for AI/AN by providing better customer service and support for those AI/ANs looking for information about the Marketplace.

Implementation of the Indian Health Care Improvement Act

As noted above, when Congress passed the Affordable Care Act, it also permanently reauthorized the Indian Health Care Improvement Act (IHCIA). This law has meant that AI/ANs are receiving better and more coordinated care. IHCIA provides new authorities for Indian health care, however additional actions are needed to fully implement the Act. For example, *at least* an additional \$300 million is critically needed in order to begin to implement and fund the new priorities in IHCIA. Tribes fought for over 10 years to renew IHCIA and the Administration and Congress should act to fulfill the promise enacted by the 2010 law.

We believe that more needs to be done on behalf of the IHS and Congress to take advantage of these new authorities that would be more beneficial for their communities. The battle for IHCIA renewal was over ten years in the making. When this historic law was signed, Indian Country was elated by the promise of a new and more efficient health care delivery system for AI/AN people. However, four years later

many of the provisions of the Act remain unfunded or not implemented, and in many ways, represent yet another broken promise for Indian people.

Through the ACA, the American health care delivery system was revolutionized; meanwhile, the Indian health care system still waits for the full implementation of the IHCA, despite the fact that it was passed in the same law. For example, mainstream American health care increased focus on prevention as a priority and a treatment, and coordinated mental health, substance abuse, domestic violence, and child abuse services into comprehensive behavioral health programs that is now standard practice. Reflecting these improvements in the IHCA was a critical aspect of the reauthorization effort. The time and resources paid off with the permanent reauthorization of IHCA. Highlights of what is contained in the IHCA Reauthorization include:

- Updates and modernizes health delivery services, such as cancer screenings, home and community based services and long-term care for the elderly and disabled.
- Establishes a continuum of care through integrated behavioral health programs (both prevention and treatment) to address alcohol/substance abuse problems and the social service and mental health needs of Indian people.

All provisions of the IHCA are critical to advancing the health care of American Indian and Alaska Native people and should be implemented immediately. Additional funding will only begin to scratch the surface of implementing these new budget authorities. We believe that with proper Tribal consultation, and assistance from Congress, we can begin to see the reality of this important law.

Access to Quality Medical Providers

One of the significant barriers to achieving good care is a lack of good providers at IHS and Tribal facilities. Remote and rural locations; lower pay; lengthy hiring processes and ill-equipped IHS facilities all effect the ability for providers to be recruited and retained within the IHS system. IHS has an estimated 46% turnover rate for their physicians every year, which leads to significant issues when building trust between patients and physicians and enriching care.

One solution supported by the IHS and Tribes is making IHS scholarships and student loan repayments tax exempt. This would create parity between IHS and other federal health providers such as the National Health Service Corps. The President's FY 2015 budget recommendation for the Indian Health Service supported this approach noting, "The inability to fund 577 applicants who were not currently working for IHS is a significant challenge for the recruitment efforts of the agency." The Budget request also noted that "IHS, as a rural health care provider, has difficulty recruiting health care professionals. There are over 1,550 vacancies for health care professionals... across the IHS system."

But this is just one small solution to a very complex problem. We believe that oversight by the Committee on this topic could be a positive step toward increasing providers, and thus improving care, in Indian Country. Possible solutions could include streamlining the federal hiring process; additional incentives for physicians who stay with IHS or Tribal providers for multiple years, or providing greater flexibility for scholarship and loan reimbursements. It is vital that Congress and the Administration make serious investments in recruiting and retaining medical staff in Indian Country of the health of our people is ever to improve.

Public Health Infrastructure for Indian Country

Earlier in this testimony, we listed some of the health disparities for AI/ANs including alcoholism, substance abuse, obesity, diabetes, behavioral health and suicide. Many of the top health concerns for AI/ANs of these afflictions are preventable, chronic conditions. Small, targeted, investments in public health infrastructure are an important first step in combating some of these health discrepancies. Public health is the science of protecting and improving the health of communities through education, promotion of healthy lifestyles, and research for disease and injury prevention. While health care systems like the Indian Health Service cater to the individual patient, public health seeks to serve whole communities.

The health disparities experienced in Indian Country are often the areas of health that benefit the most from a public health approach. For example, chronic/preventable diseases like diabetes, heart disease, and chronic lower respiratory disease are some of the leading causes of death for AI/AN people. A 2011 study published in Health Affairs found that increased spending by local public health departments can save lives currently lost to many of these and other preventable illnesses. The study found that a 10% increase in spending translated to a 3.2% decrease in cardiovascular disease mortality. The additional cost to local health departments, on average, was \$312,274 a year for prevention strategies. In comparison, achieving the same mortality reduction using treatment costs an estimated \$5.5 million.

However, in Indian Country, public health support is virtually non-existent. While much of the U.S. population has access to government-sponsored, accredited, health departments, behavioral health facilities or alcohol and substance abuse treatment facilities, these facilities are rare in Indian Country. Combine this with high rates of poverty, widespread historical trauma, and adverse childhood experiences (See text box), and the problems seem insurmountable.

However, we believe that a focused, multi-jurisdictional approach could help combat some of these difficult problems in Indian Country. In November 2014, a report by the Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence⁴ found that "AI/AN children experience posttraumatic stress disorder at the same rate as veterans returning from Iraq and

ADVERSE CHILDHOOD EXPERIENCES

The association between ACE (Adverse Childhood Experiences) and unhealthy adult lifestyles has been well documented. Adolescents with a history of multiple risk factors are more likely to initiate drinking alcohol at a younger age and are more likely to use alcohol as a means of coping with stress than for social reasons. The adoption of unhealthy lifestyles as a coping mechanism might also explain why higher ACE exposures are associated with tobacco use, illicit drug abuse, obesity, and promiscuity, as well as why the risk of pathological gambling is increased in adults who were maltreated as children.

Adolescents and adults who manifest higher rates of risk-taking behaviors are also more likely to have trouble maintaining supportive social networks and are at higher risk of school failure, gang membership, unemployment, poverty, homelessness, violent crime, incarceration, and becoming single parents. Furthermore, adults in this high-risk group who become parents themselves are less likely to be able to provide the kind of stable and supportive relationships that are needed to protect their children from the damages of toxic stress. This intergenerational cycle of significant adversity, with its predictable repetition of limited educational achievement and poor health, is facilitated at least in part by the social inequalities and disrupted social networks that contribute to fragile families and parenting difficulties.

Shonkoff, Jack P., et al. "The Lifelong Effects of Early Childhood Adversity and Toxic Stress." *Pediatrics* 129.1 (2012): 6232-6246.

⁴"Ending Violence So Children can Thrive," Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence, November 2014. Accessed at: <http://www.justice.gov/sites/default/files/defendingchildren/pages/attachments/2014/11/18/finalreport.pdf>

Afghanistan and triple the rate of the general population.¹¹ This troubling statistic calls for coordination between state and Tribal governments, the Department of Justice, Department of the Interior IHS, and other federal health programs. Without this important coordinated approach, our children will continue to live in a cycle of poverty, trauma, alcoholism and substance abuse.

In the 114th Congress, we strongly encourage the Committee to take a serious look at public health infrastructure and coordination in Indian Country. We believe that small investments will result serious improvements for the health of AI/ANs.

Contract Support Costs

Contract support costs (CSC) are the funds that Tribes and Tribal organizations receive from the government to manage health and other programs that were previously operated by the federal government. For many years, Congress did not appropriate enough funds to fully pay CSC. In 2012, the Supreme Court ruled that the government must pay contract support costs for Tribes even if Congress has not appropriated the funds. In FY 2014, Congress provided a partial pathway forward to fully fund FY 2014 CSC costs by removing budget-line caps and providing a lump-sum payment to the agency. However, the fluid nature of how CSC funding is accessed throughout the year means the true annual cost cannot be known until the end of the fiscal year. Therefore, Congress made the best decision possible with the information available at the time; but by the end of the fiscal year that reality has changed. IHS ended up cutting \$25 million from the IHS budget to pay for the short-funded CSC need. While most of this shortfall was restored by Congress in the FY 2015 appropriations law, this was at the expense of increases for medical inflation in the IHS budget. Congress has asked Tribes and the Administration to develop a long-term solution to funding CSC so that cuts do not have to be made from other programs.

It was clearly not the intent of the Supreme Court for Tribes to cover CSC out of their own budgets, but unless real, long-term solutions are implemented by Congress and the Administration, CSC will continue to have an unpredictable effect on direct services in IHS budget. NIHB and Tribes have recommended that Congress consider enacting mandatory appropriations for CSC in order to avoid balancing the IHS budget on the backs of other Tribal health programs. This and other solutions should be considered as part of CSC reform. This could include provisions relating to agency-wide consistency on CSC negotiations; revised timelines for CSC re-negotiations; and other standardized rates and categories.

In the 114th Congress, we encourage the committee to continue to work with IHS and Tribes in order to find a stable, long-term solution for CSC funding. One that will hold both self-governance and direct service Tribes harmless and also respects and promotes Tribal self-determination and honors the federal government's trust responsibilities and obligations.

Conclusion

Thank you for the opportunity to offer this testimony for Indian Country Health priorities in the 114th Congress. We express support for the work that this Committee has previously done to support the First Peoples of this Country and look forward to working together in a bipartisan way over the next two years. To reiterate, our top legislative concerns remain:

- 1) Achieving increased appropriations and mandatory funding for the IHS
- 2) Advance Appropriations for the IHS
- 3) Legislation to enacted to provide Medicare Like Rates for Non-hospital providers and suppliers
- 4) Tribal exemption for the Employer Mandate in the ACA
- 5) Streamlining the Definitions of Indian in the Affordable Care Act
- 6) Long-term renewal of the Special Diabetes Program for Indians

The 114th Congress also presents many oversight opportunities for the Committee that could go a long way toward improving the health of AI/ANs. Some of the potential topics could include:

- 1) Implementation of the Affordable Care Act
- 2) Implementation of the Indian Health Care Improvement Act
- 3) Access to Quality Medical Providers
- 4) Public Health Infrastructure for Indian Country
- 5) Contract Support Costs

NIHB stands ready and willing to serve as a resource for the committee as you work toward bipartisan solutions to improve the lives of AI/ANs in the 114th Congress. Together, we can achieve great things for Indian Country and we look forward to working with you.

The CHAIRMAN. Thank you very much, Ms. Bohlen.

Senator Tester?

Senator TESTER. Thank you for your flexibility, Mr. Chairman. I want to welcome Vance Home Gun. Vance is an outstanding young man who has worked in Native language. He is a Champion for Change with Senator Dorgan's Native American group that he has worked with. I thank you very, very much, and appreciate the example you set for Native American youth all over this Country.

The CHAIRMAN. Thank you very much, Senator Tester. Mr. Home Gun?

STATEMENT OF VANCE HOME GUN, 2013 CHAMPION OF CHANGE, YOUTH ADVISORY BOARD MEMBER, THE CENTER FOR NATIVE AMERICAN YOUTH

Mr. HOME GUN. [Greeting in Native tongue.] Good afternoon, Chairman Barrasso, Vice Chairman Tester and members of the Committee. My name is Vance Home Gun and my Indian name is [name given in Native language]. I am a member of the Confederated Salish and Kootenai Tribes in Montana.

I am here today to provide my testimony as a youth advisory board member for the Center for Native American Youth at the Aspen Institute. Also, as Vice Chairman Tester said, I am representing Native youth throughout Indian Country. It is a big hat to fill.

I hope to shed some light on the needs of Native American youth and compel you to make us a priority in Congress. My oral testimony is only a summary of what is included in my written testimony for the Congressional Record. The priorities of Native American youth are similar to what you will hear from our partner organizations. We want you to support our communities and keep your promises to Native Americans.

To start, I want to lay out the overarching priorities for my testimony. This is what they are.

Number one, adequate funding for programs to serve Native American youth, especially education, health, culture, mental health, language programs and welfare programs. Second, make it easier for tribes and organizations to utilize that funding.

Third, engage and listen to Native youth throughout Indian Country. You will hear many, many positive and influential stories. When they come to D.C., take time and listen to them. Ultimately, make it a goal to prioritize Native youth issues in Congress. We really urge you guys to do that.

A lot of time, stories about Native American youth focus on the negative. It is true, we do experience many challenges. But Native American youth are also leaders in Indian Country, doing positive, positive work. I believe you should invest in us.

I became involved with the Center for Native American Youth and was named a Champion for Change. The goal of the Champions for Change program is to recognize Indian youth who are working to improve their communities, encourage their peers and leaders and to promote hope.

I was named a Champion for Change simply by trying to revitalize and preserve my Native language. A good friend of mine, Dakota Brown, was also named a Champion for Change. He started a program called NERDS, Native Education Raising Dedicated Stu-

dents. Another good friend of mine who was named a Champion for Change is a 16-year old girl named Lauren from Oneida, who successfully placed 18,000 new books into the hands of Indian children.

These are positive stories from young Native leaders of today. There is so much good news in Indian Country, and there will even be more if we can work together to strengthen our Native youth.

In order for youth to be successful, we need to address the issues that young Native Americans face in Indian Country each and every day. This is where Congress comes in. More than two centuries of failed policies and underfunding have led to all kinds of problems, making it hard for Native youth to reach their full potential. Tribal leaders, urban Indian organizations and youth throughout Indian Country are doing great work to address those problems and provide a better future for all. They are doing this with limited and many times no resources as a result of policies that go against the Federal Government's trust responsibility.

For us to be successful, Congress needs to provide the funding needed for the programs and services that we were promised in our treaties, promises that men before you promised Native Americans throughout this Country. We ask that you honor those promises, we ask that you honor those words, the words of your founding fathers.

On top of the funding, the system of Federal Government serving Native American youth is complex and confusing. Let's make it easier for tribes to actualize and utilize these programs.

And before I finish, I want to mention that there are many other partners helping us reach Native youth, which can be helpful for us to work to make them a priority in the 114th Congress. Tribal leaders are working hard every day to try to ensure their children have equal and fair opportunities to succeed. I ask you to work with tribal governments to make it easier and to be rightfully consulted.

Having the tremendous opportunity of meeting many outstanding Native American youth throughout Indian Country, I know that we are still fighters, hunters and warriors. This is who we are as Indian people. I hear time and time again from youth throughout Indian Country that language and culture is a priority. It is who we are. Only we can ensure that survival. With the revitalization of our languages and cultures comes pride in who we are as a people. Western education is also a must for future generations for the survival of American Indians.

We all have the same goal of creating a healthier, more prosperous Indian Country in the United States of America. Native youth want to work alongside you as we reach that goal.

Thank you for this opportunity.

[The prepared statement of Mr. Home Gun follows:]

PREPARED STATEMENT OF VANCE HOME GUN, 2013 CHAMPION OF CHANGE, YOUTH ADVISORY BOARD MEMBER, CENTER FOR NATIVE AMERICAN YOUTH

Good afternoon, Chairman Barrasso, Vice Chairman Tester, and members of the Committee. My name is Vance Home Gun and I am member of the Confederated Salish and Kootenai Tribes in Montana. I am here today to provide testimony from my position as a Youth Advisory Board member for the Center for Native American

Youth at the Aspen Institute. Thank you for the opportunity to provide testimony highlighting Native American youth priorities today.

I am grateful for the opportunity to sit here with these distinguished leaders and hear the priorities of various tribal organizations. The priorities of Native youth are not unlike what you will hear from these partner organizations—we want you to keep your promises to provide services to Native Americans and allow our governments to express our sovereign right to decide how best to serve our people. My role today is to tell you about priorities we hear on the ground from Native American youth. I also want to tell you about some of the issues that are most important to me and the other 2.1 million Native Americans under the age of 24 including: sovereignty, culture, language, education, child welfare and health care access, especially to mental and oral health services.

At the outset I want to lay out the overarching priorities for my testimony. These priorities are:

- (1) Adequate funding for programs that serve Native youth, especially: education, language, culture, physical and mental health, and child welfare programs.
- (2) Make it easier for tribes and tribal organizations to utilize federal grants rather than bog them down with duplicative and capacity-draining administrative requirements.
- (3) Engage with and listen to Native youth in their home communities and when they come to DC.
- (4) Make it a goal to prioritize Native youth issues in this Congress.

Positive Youth Efforts in Indian Country

I want to tell you a few stories to help you understand why investing in Native youth should not just be a priority for me and my peers, but that it should be your priority because it is an American priority.

Too often stories about Native youth focus on the negative. While we do have unique needs, which I will share more about later, Native American youth are also leaders who—when given space to lead—are changing lives and improving Indian Country and the greater United States as a whole.

I became involved with the Center for Native American Youth through their Champions for Change program. I was named a 2013 Champion for Change. The goal of this program is to reach out and lift up those youth, of which there are many, who are working to improve their communities, encourage their peers and leaders, and to promote hope! Inspired by a White House initiative, the program highlights young, inspirational leaders from Indian Country who are making a difference in tribal and urban Indian communities.

I was named a Champion for Change because as a high school student and recent graduate I worked with tribal departments, local organizations, and youth groups for over six years to help preserve the Salish language. I taught language classes at high schools and created an organization called Yoyoot Skkwimilt (Strong Young People) that utilizes peer-to-peer methods to teach language and culture. Within a short time, I was asked to lead the language department for my tribe. Through my work, we educated 100 students and now 12 are fluent in Salish.

CNAY's inaugural class of Champions for Change also included a 14 year-old—Dahkota Brown—who created an after-school program called NERDS (Native Education Raising Dedicated Students). He saw too many of his peers dropping out of school and created a program to support and encourage his Native peers to excel in education. While high school graduation rates hover around 50 percent for Native Americans, those students involved in Dahkota's program have had a 100 percent graduation rate. The 2014 class of Champions included a 16-year-old who was recognized for successfully placing over 18,000 new books into the hands of children in need.

I believe these stories are inspiring. There is so much good news in Indian Country and there will be even more if we work together to find ways to support Native American youth and students.

Challenges and Barriers to Native Youth Success

Even so, young Native Americans across Indian Country face several significant challenges in their daily lives. More than two centuries of failed policies and chronic underfunding have led to intolerable disparities between the health and well-being of young Native Americans and that of their non-Native peers, seriously impacting their ability to reach their full potential. They are the most at-risk in terms of nearly every demographic.

- Native children have the nation's highest suicide rates and in the last decade, 2.5 times the national rate and in some communities that number is even higher.
- Over the last decade, high school graduation rates increased for all racial groups except Native Americans.
- Native Americans suffer from high rates of alcohol and drug abuse, chronic disease, and mental health issues.
- They are exposed to violence at disproportional rates and overrepresented in the child welfare and juvenile justice systems

Despite those many challenges, tribal leaders, tribes and urban Indian organizations, and youth themselves throughout Indian Country are doing incredible work to serve Native Americans and provide a better future for the First Americans. And they are doing so with limited or no resources as a result of policies that are not in line with the Federal Government's trust responsibility.

A prime example of this is the simple fact that the funding for federal programs and services for Native Americans is discretionary, rather than mandatory, meaning public safety, education, child welfare, housing, language programs, and healthcare are all susceptible to budget cuts.

These programs and services, which are meant to provide for the basic needs of Native Americans, and which are guaranteed through treaties—not handouts but treaties, transactions with the federal government. Our priorities are simple: adequate and just funding for the programs and services we were promised.

In addition to underfunding, the system of federal programs serving Native youth is complex and even the federal agencies and Administration themselves are confused about what programs are available, where and how to get the funding, and limited in terms of flexibility and holistic services. If the federal agencies and Administration are confused by their matrix of programs, won't tribal communities and youth programs be just as confused or more?

It can be very difficult for communities to know what services and funding are available and there is little flexibility to break down those silos and make it easier to serve their people. Another challenge is that oftentimes tribal nations and urban Indian programs receive numerous federal grants with unpredictable funding streams or only a few years in length, meaning that by the time the programs are running well and showing positive results, the grant ends. In addition, tribal nations and urban programs are burdened with several reporting requirements that require staff time that could be used more effectively to serve Native youth and other community members. Allowing for flexibility by combining reporting requirements for federal funding would ensure that tribes will spend more time providing valuable services.

The Center for Native American Youth has mapped out federal programs and services that touch the lives of Native youth. We attached it to my testimony. I hope this can be a roadmap to see the programs that impact our lives. I hope you will prioritize them and ensure they are properly funded.

Native Youth Voices

The Center for Native American Youth remains committed to learning from and listening to Native youth, tribal nations and urban Indian community perspectives. We directly engage students in roundtable discussions while visiting their communities and homes. I have participated in a number of these events myself—traveling to the Rosebud Sioux in South Dakota, the Confederated Tribes of Umatilla Indians and the Confederated Tribes of Coos, Lower Umpqua and Siuslaw reservations in Oregon, and the Wilton Miwok Rancheria in California. To date the organization has facilitated 101 listening sessions in 21 states with more than 3,800 youth in order to gather young people's priorities and perspectives on important issues. I will share a little bit about what we hear as top priorities for youth but I encourage you to read our annual Voices of Native Youth report that summarizes the issues that young people face in their communities. Here are some of the key findings from 2014 and issues that young Native Americans have asked us to prioritize in 2015.

Youth Engagement

A consistent and clear priority heard from young people is the need to be engaged and have safe places to go outside of school, particularly on the weekends and during summer months. A number of participants mentioned the increase of disruptive gang activity in tribal nation communities is a result of the lack of available extra-curricular activities. Youth have expressed that involvement in gangs in urban areas often transfers home to the reservation bringing with it violence, drug use and other crimes. Without safe environments and positive activities to engage youth, like

after-school programs offered in evenings and on weekends, there are concerns that at-risk youth will continue to turn to gangs as an outlet for their frustrations and for a sense of a belonging.

Youth participants stressed the desire to see more outlets, including cultural events, athletics, and other recreational activities in tribal nation communities. Yet, there is too often a lack of funding for these types of positive activities. Transportation is also a big priority for Native American youth because they often lack transportation to travel to such activities, to receive health care, to obtain groceries, or to visit family.

When budgets are cut, extracurricular programs and transportation services are often the first things to go. Funding for youth programs and transportation is an important priority for you to consider for improving the lives of Native youth. Without programs to engage youth, they will continue to fall victim to gangs, drugs, alcohol and other negative activities.

Education

Many Native American youth believe that education is critical to the well-being of their tribal nations and urban Indian communities and also that higher education is connected to future success of Indian Country. Native American students want culturally-appropriate student services, more Native teachers, tribally-run schools in their communities, and the integration of Native American studies into institutional curriculum. They believe these improvements will enable them and their Native peers to be successful. Native youth have identified the following barriers to attaining higher education:

- Lack of access to financial aid and difficulty finding information about financial assistance,
- Limited tutoring and other forms of academic support like after-school programs,
- Difficult school environments, including:
 - lack of infrastructure and diversity of teaching staff;
 - too few teachers;
 - lack of support from school administration and family; and
 - too few connections with community and culture.

Racial discrimination persists as a barrier to academic success for Native youth. During 2014 roundtable discussions, Native youth highlighted negative stereotyping as a major concern at school in addition to bullying and discrimination. Native participants noted that in-school bullying between Native and non-Native students, including cyber bullying, occurs frequently. One experience in the Southwest was shared about a young Native male having his long braids cut off by non-Native peers during a school bus ride. Earlier this school year, a Native boy in Texas was sent home for having long hair. Youth believe that these racist attitudes and behaviors are especially present in urban areas.

We hear Native youth asking for positive mentors and role models to help them stay focused and provide guidance throughout their education and career path. The need for supportive school environments, including encouragement throughout the education system and support in identifying, applying for, and managing scholarships and financial aid are all key education priorities for Native American students.

Health

In every roundtable discussion, health and wellness issues, including healthy lifestyle promotion, as well as challenges like alcohol and substance abuse, suicide, and teen pregnancy were raised by students. The persistent underfunding of the Indian Health Service, which is the primary agency charged with providing health care to Native Americans, makes it increasingly difficult to meet basic health needs, much less proactively address health challenges throughout Indian Country.

Native youth and our communities need access to quality, safe health care, especially primary, mental, and oral health care. Yet, what is exciting for me as a Native youth is that tribal nations are leaders in developing innovative, exciting health care programs that help address these health care needs. Indian Country can serve as a model for all communities. Below are a few examples.

In my tribal community, we have worked together to address mental health needs, despite historic efforts of the federal government to end our culture, by reaching out to elders and revitalizing our language and culture. I was recruited by my tribe to learn and teach our Native language. Through programs like these, we have provided youth with an opportunity to connect to who they are and where they come

from. Addressing the mental health needs of Native youth requires us to build traditional, cultural programs and we are already seeing success in our reservation.

Another example are the community, behavioral and dental health aide programs created by Alaska tribes over ten years ago. Native youth experience oral disease rates that far surpass US averages and over half of Native youth live in what are called dental shortage areas, meaning that there are not enough dentists to serve the population size. Alaska tribes were not going to wait around for the federal government to solve the program for them, so they built a program modeled off of what every other industrialized nation already has—a mid-level dental provider. Thanks to these tribal endeavors, there are Native villages with cavity-free children and healthier communities for the first time in decades.

Native youth want what everyone wants—for our communities to be healthy and for our tribal leadership to have the ability to make the best decisions for us. Across the country we are leading movements and working together to raise our voices and promote tribal community solutions to health problems, including successful workforce models developed in Alaska. Sharing our stories is one way we can help. Recently, many Native youth are getting published in national and local news outlets to share their stories and perspectives on tribal initiatives addressing oral health needs. While stories like youth waiting months for care and trying to pull out their own teeth are sad and difficult to hear, it is important that they are told. Native youth voices tell of our simple need and right to have equitable health care and healthy smiles we can be proud of.

Child Welfare

Addressing the distinct needs and priorities of Native foster youth was a priority issue in several of our youth convenings last year. Native youth are overrepresented in foster care and many young people are being separated from their tribal communities despite laws to prevent such placements. Recognizing this, youth and families talked about the importance of keeping siblings together in foster homes, especially current or former foster children. Throughout conversations, the need to place youth with relatives or Native foster homes to provide continuity of culture and community familiarity was expressed. Native foster children also described a need to improve the public education experience for those in foster care, since education is often difficult to navigate for foster youth and can be unwelcoming to Native youth, resulting in racism and re-traumatization for Native foster children. Educational assistance and specific programs for foster youth were highlighted as necessary supports to ensure their future success.

Culture

Youth are very interested in learning more about their language and culture from tribal elders. Many say they would like to see more young tribal members speaking their Native language and practicing traditional ways of life. Although resources are limited to support cultural and language programs, many young Native Americans identify culture and language as protective factors that help them in overcoming the numerous challenges (highlighted above) experienced by Native youth. Youth also view contemporary and traditional arts as important for healthy communities, which give them a positive outlet. Youth have also expressed the desire to learn more about traditional food systems and how to prepare traditional meals, an interest which could ultimately help improve the health of Native Americans. Numerous participants brought up the need for incorporation of their culture and traditional and contemporary arts in the educational system.

Conclusion

It is also important to note that there are many other partners helping to reach out to Native American youth, which can be helpful to you as you work to make them a priority in the 114th Congress. Tribal leaders are working valiantly every day to try to ensure their children have equal and fair opportunities to succeed. Yet, they are hamstrung in terms of resources. As a Native youth, I ask you to work with tribal governments and ensure they are rightfully consulted.

Second, the organizations you heard from today—the National Congress of American Indians, National Indian Child Welfare Association, National Indian Health Board, and National Indian Education Association—are leading an effort to create a Native Children's Agenda called First Kids First. Nike's N7 Programs have donated more than \$3 million through grants to Native youth programs across the U.S. since 2009. N7's contributions have impacted more than 200,000 Native youth to date, with a goal of reaching 2 million kids by 2020.

Casey Family Programs, a national foundation and current partner of the Center for Native American Youth, works in 50 states, the District of Columbia and Puerto Rico to influence long-lasting improvements with regards to the safety and success

of children, families and communities. They have an entire team of individuals in the Indian Child Welfare Program dedicated to improving the lives of Native American children.

The W.K. Kellogg Foundation, a national foundation, has made incredibly generous and significant investments in tribal communities and is supporting efforts to create a national bipartisan focus on children and their families, as well as growing support for tribal-led solutions to help each and every native child thrive.

Having had the tremendous opportunity of meeting many Native American Youth throughout Indian Country, I know that we are still fighters, hunters, and warriors. I hear time and time again from the youth that our language and culture must survive. Only we can ensure its survival. With the revitalization of our languages and cultures comes pride in who we are as a people. Western education is also a must for our future survival, as is taking good care of our bodies through fitness and diet. We need to do these things while still living our way of life that is unique to us. Native youth want to be a part of this great country and have the same privileges as all youth have.

Ultimately the message I have for you, distinguished members of the Committee, is simple: prioritize and invest in Native American youth. Listen to us and listen to our tribal and urban leaders. Support our priorities with proper funding of critical and basic services to our people—health care, education, social services, and community safety—and do not create barriers that make it more difficult to serve our own communities. Reach out to Native American youth; ask us what we think and find ways to help us achieve our dreams. I know there are many issues that come across your desk, but I challenge you to prioritize Native youth this Congress. We all have the same goal of creating a healthier, more prosperous, Indian Country and United States of America, and Native youth want to work alongside you as we reach that goal.

The CHAIRMAN. I am are very grateful for your testimony. Being from Montana, there are two Senators from Montana on the Committee. I would like to turn first to the Vice Chairman and then to the junior Senator from Montana.

Senator TESTER. Very briefly, I just want to thank you all for your testimony. It is unfortunate we don't have time to question you, but we will be doing that through writing, as the Chairman has indicated. I am sure this is not the last time you are going to be appearing in front of this Committee.

That being said, thank you for your testimony. As Vance said, if we work together, we really can get some positive things done.

In closing, I would just say, Mary Pavel, thank you very much for your service to this Committee, both under the direction of Chairman Cantwell and myself. You have done a great job and you will be missed.

[Applause.]

The CHAIRMAN. Senator Daines?

STATEMENT OF HON. STEVE DAINES, U.S. SENATOR FROM MONTANA

Senator DAINES. Thank you, Mr. Chairman. And Vance, I am proud of you. It is good to have you here, the pride of Arlee, Montana. It is an honor to be here with you.

It is also an honor to have two Montanans on this Committee with Senator Tester. So I know that Montana's voice will be heard here. But more important also, just Indian Country in general, the voice of Indian Country. We have seven reservations in Montana, we have one time yet to be federally-recognized tribe, with Little Shell.

I have a long to-do list of items I will be talking about today. But I think in the interest of time, and allowing others to speak, and the fact we have a vote, I will forego my four pages of priorities

and just say, it is an honor to serve on this Committee and to serve those who are in Indian Country. I look forward to a productive committee.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you so very much

The bells that you have heard in the background mean that we are now further than halfway through the vote. We are going to have to be leaving shortly.

Senator Heitkamp, I would like to know if you have anything to add, or a question?

**STATEMENT OF HON. HEIDI HEITKAMP,
U.S. SENATOR FROM NORTH DAKOTA**

Senator HEITKAMP. Just a congratulations, Mr. Chairman. I just want to make sure you know that I know you are the chairman. [Laughter.]

Senator HEITKAMP. And I want to welcome one of my tribal chairmen, Richard McCloud, who is here today from the Turtle Mountain Band of Chippewa. He is very involved with youth in his community and certainly an Indian leader in our State. Also, Melvin, who is enrolled at the same reservation.

I also want to say, my list is long. And I want to brag a little bit, because I think both Senators from North Dakota are also on this Committee. Senator Hoeven is busy spearheading and working very hard on the Keystone Excel Pipeline or I am sure he would be here to greet you.

This is a very, very high priority for me. I think anyone who has seen my first two years in the United States Senate knows that. This is a passion. And it really speaks to our future. Vance, you said it so well. If we focus on the children, if we build coalitions around the children, if we look at what the children need and listen to the children, in 20 years we will have done something that we haven't done for the last 150, and that is be respectful to the culture, respectful to treaty rights and obligations that we have, and to build a united belief that all of the children of this Country are all of our children.

So I look forward to working with all of you. I have, as the new Senator from Montana said, I have a long list of priorities. We hope that we can be successful in all of them. Thank you so much.

The CHAIRMAN. Thank you, Senator Heitkamp.
Senator Lankford?

**STATEMENT OF HON. JAMES LANKFORD,
U.S. SENATOR FROM OKLAHOMA**

Senator LANKFORD. Thank you as well for being here. I also have a very brief comment. From Oklahoma and the 38 federally-recognized tribes in Oklahoma, I look forward to the ongoing conversation and what will happen around this dais, and also in other conversations away from this dais as well.

I appreciate joining the Committee. I look forward to the ongoing conversation and working together.

The CHAIRMAN. Thank you, Senator.

Welcome also, joining us today is Assistant Secretary Kevin Washburn and his deputy, Larry Roberts. Welcome to the Com-

mittee. I know that you have testified many times and we look forward to seeing you again.

What really stuck with me, Ms. Bohlen, as you said, live sicker, die younger. As a physician I have great concerns about health, combined with housing, education, jobs, the economic opportunities, it all comes together to help improve those who are living sicker and dying younger, and to address that issue. So thank you very much.

We are going to need to go vote and it sounds like we have 18 votes. So it is going to be very difficult for us to return to engage in the questioning. You will be receiving written questions, as well as we will adjourn this meeting and turn it into a listening session, as members of the staff who you are familiar with, they are going to come and continue the discussion and dialogue.

Thank you very much for being here today. The meeting is adjourned.

[Whereupon, at 2:47 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Chairman Barrasso, Vice Chairman Tester, I appreciate the hearing you have convened today to hear from the Nation's tribal organizations on the priorities of Indian Country. We're not here to hear excuses of inaction of the federal agencies, but to hear the aspirations of tribes. How would tribes like to manage their own lands, affairs, and future.

Chairman Barrasso, the priorities you lined out at the State of Indian Nations: energy, jobs, juvenile justice and economic development are issues I look forward aggressively addressing in this Congress. If I may quote our Democratic colleague from North Dakota, Senator Heitcamp, we should not be reauthorizing statutes for the sake of reauthorizing, but asking ourselves what will change the paradigm to allow our Nation's first peoples to realize the prosperity of the American Dream.

This begins with honoring the government to government relationship that exists between Indian tribes and the United States. In the last 50 years, since statehood, and since the passage of the Alaska Native Land Claims Settlement Act, we created unique institutions in our State—tribes, tribal organizations, and Native corporations that are delivering basic government services on behalf of the United States, and privately managing their own Native lands. As our Lt. Governor in Alaska would say, "we have come a long way, yet we have a long way to go."

I would like to mention several issues that will remain important to me, and to Alaska. We must address the pressing need for adequate funding for our village clinics. The federal government has ignored this responsibility for too long. The Indian Health Service only covers 55 percent of the operating costs of our village clinics. Tribes in Alaska have had enough of inaction from the Administration on this issue.

I have also focused much attention on achieving public safety in our villages. Last year I directed the Bureau of Indian Affairs to determine what it would cost to fund tribal courts in PL280 states. It's a failed policy of the BIA to deny these tribes of any operational programs to deliver justice to our communities. The rates of violence demand action.

In closing, I would like to welcome the new Republican members to the Indian Affairs Committee. I look forward to hearing the witness testimony.

PREPARED STATEMENT OF THOMAS D. OGAARD, PRESIDENT/CEO, NATIVE AMERICAN BANK, NA

On behalf of the Native American Bank, National Association (NAB), I submit this statement to endorse and reinforce the recommendations of the National Center for American Indian Enterprise Development to increase support for the Indian Loan Guarantee Program administered by the Office of Indian Energy and Economic Development (OIEED) of the Department of the Interior. National Center CEO Gary Davis gave high priority to this important program in his testimony for the Committee's Oversight Hearing, and asked that the NAB provide some supplementary information to the Committee based on the bank's extensive experience in lending and successfully working with the loan guarantee program.

The NAB provides capital resources on a nationwide basis to Native American Tribes, Alaska Native Corporations, Tribal economic development corporations and Native individuals. The NAB is a subsidiary of The Native American Bancorporation Co., which was formed in 1998, and is owned by 33 shareholders, 90 percent of whom are a combination of tribes, Alaska Native Corporations, tribal owned entities and other Native interests.

As a lender, the NAB has long utilized the OIEED's Indian Loan Guarantee Program to leverage our ability to provide capital in Indian Country. After a couple of challenging years dealing with the Great Recession, NAB is growing again and in the last two years has become one of the lenders with the largest portfolio of loans

that are subject to these guarantees. In Fiscal Year (FY) 2014, our loans accounted for more than 25 percent of the total loan principal subject to the program's guarantees. Many of these loans would not have been possible without the support of this essential loan guarantee program and the diligence of NAB to provide economic opportunities in Indian Country.

To supplement the testimony already provided, I would like to address three specific areas: (1) the benefits this program provides, including individual examples; (2) the limited amount of funding provided to and by the program; and (3) some limits of the program that restrict its effectiveness.

I. Benefits of the Indian Loan Guaranty Program

The Program's guarantees are pivotal in providing access to capital for Native tribes and communities. All tribes are very interested in diversifying their economic activities and are becoming more sophisticated in their approach to development. Leveraging their resources by obtaining capital through a guaranteed loan is one avenue that is gaining notice. Economic diversification by tribes, done typically on or in close proximity to their reservation, usually means the creation of a new entity. A new commercial endeavor, combined with a construction and startup phase, presents a greater risk for most banks than other loan transactions. In Indian Country, collateral is often problematic (such as how to obtain a leasehold mortgage on trust land), rendering the transaction even more challenging to meet the underwriting demands of today given our regulatory environment. An Indian Loan Guarantee is essential (as a guarantee on 90 percent of the loan's value, susceptible to tribe court adjudication, etc.) and is a strong mitigant, for the risks involved in this type of lending. Without this program, many projects would not be undertaken. Below are some examples:

- A. NAB is in the final stages of funding a state of the art recycling facility on a reservation in Florida. Tribal members, with some support from their tribe, formed a partnership to bring this concept to reality. For some time, they could not get interest anywhere to finance this facility until NAB stepped in to underwrite a \$5.2 million loan and obtain an Indian loan guarantee. With the facility going online within weeks, it has received significant interest and commitments. It brings economic diversity to the reservation, adds 15-20 new jobs and is already being considered as a proto-type for a sister facility.
- B. NAB provided capital resources in the form of a loan for \$5.5 million, with an Indian Loan Guarantee, to build a new hotel on a Montana reservation that is also on the doorstep to one of America's great national parks. Efforts to source multiple types of financing were met with lack of interest. The Indian Loan Guarantee Program was the vital link to getting this project launched. Previously, much of the tourism, retail and government traffic passed through this small community without stopping, because of the lack of adequate accommodations. Today, this well-known hotel brand has become a stop off point where dollars are being spent locally and has provided up to 25 additional jobs.
- C. NAB is about to close on a nearly \$13 million dollar project in Nevada, providing \$10 million in capital through an Indian Guaranteed loan to the local tribal economic development authority. In an effort to diversify their economy, the tribe completed an exhaustive study to determine what type of retail entity would have the best opportunity for success. Initially the tribe was seeking to finance this project with bonds, however that option proved to be too difficult. Next they turned to traditional bank financing but found that route to be difficult as well. Then NAB stepped in to provide a loan, along with the interest subsidy as part of the Indian Loan Guarantee Program, and finally the project had the financing to move ahead.
- D. NAB is in the final stages of funding \$1.7 million for a new facility in a remote Alaska village that will become the community's general store. The project involved consolidating the existing two dilapidated buildings into a new structure that is much more efficient and has more capacity to provide additional goods and services. The ability of the village to order goods, oil and gas in larger quantities will enable its members to purchase these necessities at a somewhat lower cost than the very expensive prices they have been paying. Without the Indian Loan Guarantee, the loan could not have been made and this project would have never happened.

II. Amount of Funding Provided to and from the Program

As noted in the National Center's testimony, the Congress appropriated less than \$7 million for FY 2015 for the Indian Loan Guarantee Program allowing for about

\$100 million in total loan principle subject to guarantee. The limit for FY 2014 was about \$93 million, the guarantees were fully utilized, and NAB accounted for over 25 percent of the program's guaranteed dollars, as noted earlier. In October, 2014, at the start of this FY 2015, NAB had another \$10 million in pending loans waiting for guarantees which could not be approved until Congress took final action on the FY 2015 Omnibus Appropriations Act. In addition, we now have another \$30 million in process in our loan pipeline that will be submitted to OIEED for guarantees over the coming weeks and months.

As a result of our work, and that of others, to educate and give guidance to Indian Country on native economic endeavors and options for financing, particularly in rural/remote areas, the Indian Loan Guarantee Program is becoming better known as a mechanism for making these projects come to fruition. The volume of interest and projects being presented to us has increased several fold over the last two years. We see the economic opportunities within Indian Country growing substantially, making the need for capital even more vital. We are expecting and planning that the Indian Loan Guarantee Program's current limit of \$100 million in total loan principal will not support all of the requests for guarantees this fiscal year, however.

Keep in mind that, in 2006, Congress increased the statutory authorization for this important program from \$500 million to \$1.5 billion as the limit on total loan principal subject to guarantees. For FY 2016, Congress must start increasing the funding for the credit subsidy for this essential program to enable lending to accelerate and move closer to those much higher loan limits that Congress intended to see achieved when it increased the lending authority in 2006.

III. Limits of the Program

Fundamentally the program has played a strategic role in helping provide economic opportunities that otherwise would never become available. It is a central part of NAB's strategic mission to assist with options for economic diversity that will help tribes become more self-sustaining. Among the program's strengths is the flexibility to accommodate different structures for a financing package.

Limited funding continues to hamper the program's operations and effectiveness, however. Already noted is the unreasonably low level of funding that has been provided in recent years for the credit subsidy for the guarantees and the correspondingly inadequate limit on the total amount in loans that can be guaranteed each year. Administration of the program also has been challenging, since the OIEED has suffered cuts to personnel and resources available to operate and review and process all the applications for guarantees. The NAB supports the recommendation of the National Center to increase FY 2016 funding for the OIEED, as well as for the Indian Loan Guarantee Program, to enable both to do a better job meeting the capital needs of Indian Country.

In closing, I would like to thank the Committee for the opportunity to provide my comments on behalf of Native American Bank.



A Confederation of the Salish,
Pend d'Oreille
and Kootenai Tribes

January 27, 2015

Honorable John Barrasso, Chairman
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION

P.O. BOX 278
Pablo, Montana 59855
(406) 275-2700
FAX (406) 275-2806
www.cskt.org



TRIBAL COUNCIL MEMBERS:

Ronald Trahan - Chairman
Carole Lankford - Vice Chair
James V. Matt - Secretary
Leo Twoleceh - Treasurer
Vernon S. Finley
Shelly R. Fyatt
Leonard W. Gray
Lloyd D. Irvine
Terry L. Pils
Duffy Stevens

RE: Congratulations and Testimony Relaying our Priorities for the 114th Congress

Dear Mr. Chairman,

Greetings and Happy New Year.

The Confederated Salish and Kootenai Tribes (CSKT) of Montana congratulate you on your appointment as Chairman of the Senate Committee on Indian Affairs. We look forward to working closely with you and Vice Chairman Tester as the Committee continues its longstanding and bi-partisan advocacy in protecting the interests of the first Americans. We appreciate you holding a hearing on Indian Country Priorities and we submit both this letter and the attachment to the hearing record as indicators of our priorities.

Maintain and Increase Much Needed Funding for BIA and IHS; Support Advance Appropriations

As the foremost Self-Governance Tribe in the country (total programs that are tribally managed), most of the CSKT's concerns are related to Self-Governance and federal funding. Tribal communities depend on Bureau of Indian Affairs (BIA) funding and health care from the Indian Health Service (IHS). We hope the Committee will strongly advocate exempting BIA and IHS programs from sequestration as other comparable programs are.¹ Indian program funding did not create the deficit and program reductions should not be put on the backs of the lowest income and most disadvantaged Americans. Across the board cuts that harm BIA and IHS programs really are incredibly unfair and counter-productive, even to the cause of deficit reduction. As the Indian Affairs Committee's analyses over the years have repeatedly demonstrated, these programs are seriously underfunded now. We hope the Committee will remind the Budget and Appropriations Committees of the inequities in the allocations of funds to the Indian programs.

¹Section 255 of the Balanced Budget and Emergency Deficit Control Act, which included sequestration provisions, (codified at 2 U.S.C. 905), identifies programs that are exempt from sequestration, such as Social Security benefits, all programs administered by the VA, Medicaid and the Supplemental Nutrition Assistance Program.

We are encouraged by your medical experience and your role in oversight of the Indian Health Service. We support mandatory – not discretionary – funding for the Indian Health Service, and advance appropriations so that health care can continue without disruption. The negative impacts of the recent sequestration and the possibility of future reductions are a major concern. Advanced appropriations for IHS would allow for better planning, more efficient spending and higher quality care for Indian people.

We also want to draw your attention to a very important funding issue within Interior, namely BIA Forestry and Fire Management Funding.

DOI Forestry and Fire Management Funding

The CSKT Forestry staffing has declined steadily since the 1990's and there are 14 less full time staff (40 percent reduction) now than there was during the Indian Forest Management Assessment Team (IFMAT II) site visit of 2002. Currently 90 percent of CSKT Forestry's operating budget comes from BIA compact funds. These funds have not been adjusted for inflation or increasing operational costs in many years. Fire Program Funding continues to be an issue. CSKT Leadership presented testimony before the House Committee on Natural Resources on this subject in April of 2014. The testimony outlined the issues that CSKT continues to be concerned about. It seems that the revised methodology for fuels funding allocation has stalled and Tribes are very concerned that the process is reverting back to something similar to the old Hazardous Fuels Priority Allocation System (HFPAS) which was rife with problems and inequities that negatively affected the allocation of hazardous fuels funding to the BIA and Tribes versus other agencies within Interior.

Meaningful tribal consultation has been very lacking in this evolving process at Interior and we would appreciate your support for equitable funding for BIA projects within this program. CSKT has recently submitted comments on the draft Office of Wildland Fire Consultation Policy Memo.

The CSKT urge the Committee to work with Congress to implement the findings and recommendations from the congressionally required Indian Forest Management Assessment Team (IFMAT) report which included adding \$100 million per year to BIA and Tribal forestry programs, adding approximately 800 staff positions, and another \$12.7 million annually for forestry education and training programs. We also urge the Committee to consider and evaluate separating BIA Fire Program Funding from any allocation formula developed by the Interior Office of Wildland Fire, Interior Fire Executive Council. We have requested a separate funding mechanism in the past. We recommend funding the BIA \$50 million/year in fuels or not less than 25 percent of the total allocation.

The CSKT is a large land-based Tribe and we depend on timber income annually. We budget the timber sales revenue for local program operations. Inadequate BIA funding for forestry and wildland fire impacts employment, present Tribal revenues, and future Tribal revenues when timber is lost to preventable wild fire damages, which constitute a violation of trust responsibility. The CSKT urge the Committee to get involved by enacting a Tribal funding formula that is not influenced by Interior politics and that takes into account the trust responsibility that DOI has to protect tribal trust lands. Our past involvement and experience in this particular funding issue may be of assistance to you and the Committee.

In your tenure as the new Chairman, we want to extend an invitation to you to visit the CSKT and see the type and professional nature of programs we operate pursuant to the Tribal Self-Governance Act. We have enclosed a list of our federal priorities for the coming year. We believe in controlling our own

destiny to the extent possible and we work hard at wisely using what funds we receive. We would be glad to welcome you and your staff on our reservation to tour our community and meet our fine program staff.

Again, congratulations on your appointment. You will be hearing from the CSKT from time to time and we hope to hear from you as well. The attached document contains further CSKT priorities as well important principles of Tribal Self-Governance that we hope the Congress will support.

With much respect,


Vernon Finley, Chairman
Confederated Salish and Kootenai Tribes

Attachment

ADDITIONAL PRIORITIES OF THE CSKT DURING THE 114TH CONGRESS

The letter to Committee Chairman Barrasso accompanying this statement outlined two of our top priorities:

Protecting and Enhancing Funding for the BIA and IHS Including Exemption from Sequestration and Advance Appropriations; and

Ensuring Sufficient Funding for BIA Forestry and Wildland Fire programs.

Additionally, below is a short description of our other top priorities:

Support the CSKT Water Compact

The CSKT are optimistic about the passage of the CSKT Water Compact by the State of Montana Legislature. Once that happens, the CSKT will be reaching out to the Committee and others in Congress to obtain federal support in Congress of the water compact in 2016.

Improve Oversight of Trust Assets and Access to Land Buy Back Funds through the term of the Settlement

We have testified before this Committee on the implementation of the Land Buy Back Program and continue to work extensively on this issue. We believe that Tribes should be allowed to access the Land Buy Back Funds throughout the remainder of the program. No funds should be returned to the Treasury. The original 40 Tribes listed in the original Interior report, which have 90% of the fractionated interests, should be able to access the funds, as long as there are willing sellers on our reservations. We seek the support of the Committee in urging Interior to not restrict access to the funds. The "clearing house approach" to purchases should be implemented such that purchases can be made from any area as long as there is an approved appraisal. This saves Interior and BIA time and money in the future as interests are consolidated to the Tribes. There will be fewer IIM accounts to administer and less fractionation will occur.

We urge the Committee to ensure that Interior prioritizes and implements the recommendations from the Report of the Commission on Indian Trust Administration and Reform (CITAR), Final Report, December 10, 2013. This report should be guiding interior budget actions, BIA budgets, and improvement of technology based systems that identify and track trust assets. Within the report, there is a section of special recommendations for expedited probate procedures for small estates. There are alternative strategies (Section V of the Report Special Matters and Recommendations – page 53) recommended that would reduce the backlog and workload of the BIA Office of Probate and OHA Administrative Law Judges. These are low cost and no cost recommendations that would save millions in the long run and provide better customer service to Indian beneficiaries.

We strongly recommend that the Committee require the Secretary of the Interior to direct the Director of the BIA to implement expedited probates which would mean fractionated Indian landowners may get the opportunity to participate in the DOI Land Buy Back Program.

We also urge the Committee to ensure that Interior prioritizes and implements organizational change to protect the assets of Indian Nations. The Final CITAR Report identified Interior/BIA organizational changes that would improve oversight of trust assets. Act now before the next Cobell case is filed. Improvements have been identified and action is needed on those recommendations.

Honor and Strengthen Trust Responsibility

Congress must enact agency standards to hold all agencies accountable for agency impacts on Indian Assets. Trust responsibility is not just a BIA and Interior Department function.

Ensure Parity in Law and Order Funding and Increase Access to DOJ Indian Country Resources

Our funding for law enforcement at CSKT is simply inadequate for the vast area that our officers must patrol to keep our people and communities safe. The need for additional law enforcement funding in Indian country has been noted by the Indian Law and Order Commission's Final Report and Recommendations "A Roadmap for Making Native America Safer" as required by the Tribal Law and Order Act. This official commission appointed by Congress came up with several recommendations, including:

Congress and the executive branch should direct sufficient funds to Indian country law enforcement to bring Indian country's coverage numbers into parity with the rest of the United States; and

Some of these problems could be resolved if Tribal governments were able to access DOJ Indian country resources via P.L. 93-638 contracts, self-governance compacts, or P.L. 102-477 funding agreements, all of which allow Tribal governments to take over the management of Federal funds. Tribal governments could then address coordination issues directly and save money by assuring more appropriate uses of funds in their communities. At present, they cannot as P.L. 93-638 and its amendments apply only to DOJ and the U.S. Department of Health and Human Services' Indian Health Service, and P.L. 102-477 applies narrowly to formula-funded employment and training grants administered by the U.S. Departments of Education, Health and Human Services, Interior, and Labor.

We support both these recommendations by the Commission.

Support Affordable Care Act and Indian Health Care Improvement Act Provisions Benefiting Indian Country

We understand that P.L.111-148, the Affordable Care Act (ACA), is viewed as being controversial in numerous circles and we are all for any improvements to the ACA and its implementation that can be agreed upon by Congress, the White House, the States and Tribal Governments. Nonetheless we have found that the ACA and the permanently reauthorized Indian Health Care Improvement Act provisions (IHCIA) contained within have been profoundly important to our communities and we urge Congress to retain the law.

The ACA provides new opportunities for health care for Indian people. The ACA has given tribal members more choices – to use the IHS, to purchase affordable health care coverage, and/or to access coverage through other sources such as Medicare, Medicaid, and the Children's Health Insurance Program (CHIP) if they are eligible. The ACA also provides authorization for new and expanded programs for mental and behavioral health treatment and prevention, long-term care services, and dialysis services and has led to better facilitation of care for Indian veterans. It has also provided Indians with the opportunity to have expanded opportunities to obtain health care through the insurance marketplace. With our health disparity

versus other Americans, it is essential that Indians can access care through health insurance, which the ACA has been able to provide.

PRINCIPLES OF SELF-GOVERNANCE THAT NEED THE CONTINUED ATTENTION OF CONGRESS

We would also like to urge the Committee to work with the Congress to sustain and strengthen self-governance endeavors for the CSKT and other tribes nationwide. Self-governance has been the most successful federal policy enacted on behalf of Tribal nations. It has provided for the strengthening of Tribal governing structures and facilitated direct local control of programs and services based upon Tribal priorities.

Action Item: Transfer Indian Health Service appropriations from the Interior Appropriations Subcommittee to the Health and Human Services Subcommittee.

Appropriations for Indian people's health care properly belongs in HHS, not the Interior Subcommittee.

Action Item: Enact mandatory funding for Indian Health Service.

The status of appropriations for IHS needs to become mandatory, not discretionary, to safeguard it from sequestration and across-the-board rescissions.

Action Item: Appropriate full funding for Contract Support Costs and Resolution of Past Years' CSC Claims.

A discrete line item appropriation for Contract Support Costs, based on the IHS's and Interior's CSC Shortfall Reports, is needed so that Tribes' CSC needs are not funded by reducing funding for services.

Action Item: Enact full funding to implement the reauthorized Indian Health Care Improvement Act provisions.

Funding must be appropriated to implement the IHCA provisions with particular respect to behavioral health (alcohol/substance abuse and mental health) and improving health status of Indian people.

Action Item: Enact funding for Indian Affairs' Operation of Indian Programs (OIP) to include increases for Tribal Priority Allocations (TPA), Fixed Costs, and Pay Costs.

Tribal Priority Allocations have remained flat for years and rescissions and sequestration has further reduced program funding levels.

PREPARED STATEMENT OF RANDELLA BLUEHOUSE, EXECUTIVE DIRECTOR, NATIONAL INDIAN COUNCIL ON AGING, INC. (NICOA)

On behalf of The National Indian Council on Aging, Inc. (NICOA), I thank you for the opportunity to submit testimony.

NICOA is a non-profit organization founded in 1976 to advocate for improved comprehensive health, social services, and economic well-being for American Indian and Alaska Native Elders. NICOA also operates as a National Sponsor of the federal Senior Community Service Employment Program (SCSEP). NICOA's SCSEP operates in fourteen states through an American Indian set-aside grant from the Department of Labor. For over 39 years, we have served as the nation's foremost advocate for American Indian and Alaska Native Elders.

Today's hearing, "Indian Country Priorities for the 114th Congress," is important for the opportunity that it provides our community to share not only our challenges but also the solutions that we see possible with the partnership of Congress. The issues that Indian Country faces are not unique, though the solutions that they require may be different due to structural, societal, and legal differences.

NICOA members submit resolutions which are presented and voted by AI/AN Elder members 55 years and older, who attend our national Aging Conference every other year. These resolutions address both the issues our AI/AN Elder communities face, especially as its members age, and provide possible solutions. We have attached the most relevant resolutions here, including the resolutions adopted by NCAI in partnership with NICOA. These are resolutions which Congress could take action on and which would make a significant difference in the quality of life for American Indian and Alaskan Native Elders.

NICOA appreciates this opportunity to submit this testimony, and we look forward to working with the Committee this Congress.

Attachments

NATIONAL INDIAN COUNCIL ON AGING—Resolution #2014–02

TITLE: Gerontology and Geriatric Research to Benefit American Indian/Alaskan Native (AI/AN) Elders & Tribes

WHEREAS, we the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

WHEREAS, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native (AI/AN) Elders. NICOA submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

WHEREAS, health care providers and the general public do not have access to adequate gerontology and geriatric data and information. There is a lack of relevant, immediate, applicable community based and inter-disciplinary data. This lack of information contributes to AI/AN health disparities, maltreatment, exclusion, gaps, and other gerontological health issues, and;

WHEREAS, research is needed to promote systematic investigation, development, testing, and evaluation centered on health issues central to the Native community in order to create a continual dialogue between investigators, health care providers, and the Native communities in general; and

WHEREAS, the lack of research and evidence based data and information specific to AI/AN Elders decreases opportunities for tribes to seek alternative funding placing the AI/AN entities at a disadvantage for accessing potential resources to support aging services. Health care data and information help to enhance opportunities to secure funding resources for a variety of care services by tracking death rates and such chronic illness and acute disease. The evidence based findings and interviews will contribute to health based equity and promote healthier lifestyles and establish common ethical and research practices such as community based participatory research (CBPR) that gains the trust of the AI/AN community by observing cultural values; and

NOW THEREFORE BE IT RESOLVED, that the NICOA Elders do hereby request that the U.S Department of Health and Human Services increase opportunities and direct funding for gerontology and geriatric research to AI/AN entities; and

BE IT FURTHER RESOLVED, that the Centers for Disease Control and Prevention, and the National Institutes of Health increase research for and by AI/AN organizations with direct set aside funding from an increased Congressional appropriation; and

BE IT FURTHER RESOLVED, that this resolution is policy of NICOA until it is withdrawn or modified by subsequent resolution

NATIONAL INDIAN COUNCIL ON AGING—Resolution # 2014–04

TITLE: NICOA Elders Call for a National American Indian/Alaska Native Hearing on Aging

WHEREAS, we, the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

WHEREAS, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native (AI/AN) Elders. NICOA submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

WHEREAS, AI/ANs are struggling with many issues that are unrecognized by policy makers as poverty increases, substandard housing deteriorates, health care dollars shrink, the cost of living increases, veterans suffer long waits and lack of

care, federal funding decreases, Native Elders age in greater numbers and require home and community-based long term services and supports, raise grandchildren, live with Alzheimer's Disease, provide caregiving as they cope with their own aging challenges, work for acceptance of LGBT Elders; and

WHEREAS, Congress has stated that "older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities" (42 U.S.C. 3057a); and

WHEREAS, in the 36 years since Title VI was added to the Older Americans Act, funding and services for Title VI have never been comparable to funding for Title III, leaving older American Indians and Alaska Natives without needed services to allow them to live vital, independent lives, as long as possible in their homes and communities. These many pressing concerns require a broader audience to create awareness and a sense of the urgent, imperative nature of the problem; and

NOW THEREFORE BE IT RESOLVED, that NICOA Elders request full Congressional Hearings on the Needs of American Indian, Alaskan Native and Native Hawaiian Elders to enable tribal leadership to testify on the status and unmet needs of tribal Elders. These hearings should also be held throughout Indian Country to allow for our esteemed Elders attendance and participation; and

BE IT FURTHER RESOLVED that the congressional hearings be held prior to September 30, 2015 and be co-sponsored by the Senate Select Committee on Aging and the Senate Select Committee on Indian Affairs; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of NICOA until it is withdrawn or modified by subsequent resolution.

NATIONAL INDIAN COUNCIL ON AGING—Resolution # 2014–05

TITLE: NICOA Elders Oppose Cuts in Title V Funding

WHEREAS, we, the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

WHEREAS, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native Elders. NICOA submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

WHEREAS, the Senior Community Employment Program or SCSEP is the largest federally funded program which targets older adults 55 and older seeking training and employment. It is authorized by Title V of the Older Americans Act. Created in 1965, the program matches eligible older adults with part time work-based training in community service organizations. Participants build skills and self-confidence while earning a modest income. For some, their SCSEP experience leads to permanent employment. This job training serves as a bridge to unsubsidized employment opportunities for participants and assists with the provision of needed community services; and

WHEREAS, the President's FY 2015 budget request proposes a cut of over \$54 million to SCSEP (from \$434.4 million to \$380 million) across the nation. This cut would mean a loss of paid training for 9,000 lower income older adults in national and state projects. This loss of funding would impact the Elders receiving training and also the programs who benefit from SCSEP participants' assistance; and

WHEREAS, in the year ending June 30, 2014, NICOA SCSEP provided 539,513 hours of service in over 210 local tribal, government, and private nonprofit community agencies; and

WHEREAS, funding for the National Indian Council on Aging's SCSEP would be cut by \$730,717 starting July 1, 2015. About 100 fewer older low income Elders would be provided jobs and training and approximately 61,700 staff hours would be lost by community service organizations; and

NOW THEREFORE BE IT RESOLVED, that NICOA Elders oppose the proposed \$54 million cut to SCSEP and any future cut in funding to SCSEP; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of NICOA until it is withdrawn or modified by subsequent resolution.

NATIONAL INDIAN COUNCIL ON AGING—Resolution # 2014–06

TITLE: NICOA Elders Request Comparable Equity between Title III State Services and Title VI Tribal Services

WHEREAS, we, the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

WHEREAS, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native Elders. NICOA, submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

WHEREAS, the Administration on Aging (AoA) grants are awarded under Title VI to American Indian tribal organizations, Alaskan Native organizations, and non-profit groups representing Native Hawaiians. Grants are used to fund supportive and nutrition services for American Indian/Alaska Native (AI/AN) Elders. Grants are awarded to more than 250 tribal organizations and 2 Native Hawaiian organizations. In addition, family caregiver grants have been awarded to 218 Title VI organizations; and

WHEREAS, the Older Americans Act states in Title VI that “it is the purpose of this Title to promote the delivery of supportive services, including nutrition services, to AI/ANs and Native Hawaiians that are comparable to services provided under Title III. However, the provision of “comparable services”, has not been achieved due to insufficient funds for this Title; and

WHEREAS, NICOA acknowledges the tremendous efforts of Title VI Directors and the creative approaches they develop to cope with budget shortfalls. Approximately two thirds of the grants to AI/AN tribes or consortia of tribes are for less than \$100,000. This funding level is expected to provide services for a minimum of 50 Elders for an entire year. Those tribes receiving more than or at least \$100,000 serve between 200–300 Elders. Many tribes are not able to meet the five day per week meal requirement because of insufficient funding and are serving congregate meals only two or three days per week; and

NOW THEREFORE BE IT RESOLVED, that NICOA Elders request that the Administration on Aging (AoA) increase appropriation of funding for Title VI of the Older Americans Act based on the number of eligible AI/ANs in each of the designated service areas. According to the AoA, the number of AI/AN people age 65 and older is projected to increase by nearly 75 percent between 2010 and 2020; and

BE IT FURTHER RESOLVED, that NICOA Elders request for increased training for Title VI service providers that include new and innovative ways to improve Indian Elder access to social services. Funding for training should be separate from funds used to provide direct services; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of NICOA until it is withdrawn or modified by subsequent resolution.

NATIONAL INDIAN COUNCIL ON AGING—Resolution # 2014–07

TITLE: NICOA Elders Request Long Term Care Funding

WHEREAS, we, the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

WHEREAS, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native Elders. NICOA submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

WHEREAS, as the American Indian/Alaska Native Elder population increases, the urgent need for long term care services and supports also increases. According to the Administration on Aging, the number of AI/AN people age 65 and older is projected to increase by nearly 75 percent between 2010 and 2020. The Centers for Disease Control and Prevention found that Native people overall were 50.3 percent more likely to have a disability, when compared with the national average. Overall AI/AN populations experience some of the highest rates of chronic disease and disability in the U.S; and

WHEREAS, a 2010 survey by R. Tuner Goins, Ph.D. found that out of 566 tribes only 15 percent of tribes had nursing home services and 16 percent had assisted living services; and

WHEREAS, The Affordable Care Act and its dual legislation, the Indian Healthcare Improvement Act grants the Indian Health Service (IHS) specific authorities for provision of long term care; and

WHEREAS, the aforementioned legislation only authorizes IHS to provide services but does not mandate any new funding specific to long-term care. The Indian Health Service does provide care but has been underfunded for decades. In a 2005 GAO report titled "Indian Health Service: Health Care Services Are Not Always Available to Native Americans" highlighted the ongoing problems of long wait times, lack of adequate facilities and rationing of care due to lack of funding; and

WHEREAS, adequate appropriations are needed to address this looming health crisis; and

NOW THEREFORE BE IT RESOLVED, that NICOA Elders do hereby call on the Obama administration to request and for Congress to authorize and appropriate adequate funding for the provision of long term care services and supports for American Indian and Alaska Natives; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of NICOA until it is withdrawn or modified by subsequent resolution.

NATIONAL INDIAN COUNCIL ON AGING—Resolution # 2014–10

TITLE: NICOA Elders Support the Reauthorization of the Older Americans Act

WHEREAS, we, the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

WHEREAS, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native Elders. NICOA submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

WHEREAS, the Older Americans Act is the key legislative framework for developing, coordinating, and delivering home and community based services that allow American Indian/Alaska Native Elders to maintain their independence. The Title VI program of the Older Americans Act provides for supportive and nutrition services which aid AI/ANs across the country. The Act also authorizes the only federal workforce program which provides training to help transition low income Elders into suitable employment in their community. The Act also provides for a long term care ombudsman program to provide those living in long term care facilities with protection of their rights and wellbeing; and

WHEREAS, despite these and many other important provisions, the Older Americans Act was last reauthorized in 2006; its authorization expired in 2011. This delay means that even more Elders will not receive services as demand is only projected to increase. The population of American Indian/Alaska Natives age 65 and older is expected to grow by 116 percent by 2030. Additionally the Older Americans Act is subject to sequestration, resulting in unnecessary and harmful cuts each year through 2021; and

WHEREAS, the Senate Health, Education, Labor, and Pensions (HELP) Committee voted to send S. 1562, a bipartisan reauthorization bill, to the Senate floor. In the House Rep. Suzanne Bonamici has introduced H.R. 4122, which would strengthen the Older Americans Act and is similar to the Senate bill. Another House bill, H.R. 3850 would simply reauthorize the Act with no changes; and

NOW THEREFORE BE IT RESOLVED, that NICOA Elders do hereby support the passage of S.1562 and H.R. 4122. These bills would expand and modernize the Act for the next 5 years as well as preserve the separate titles for congregate and home-delivered nutrition programs and maintain voluntary contributions for participants. As a last resort, NICOA would also support the straight reauthorization bill, H.R. 3850; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of NICOA until it is withdrawn or modified by subsequent resolution.

NATIONAL INDIAN COUNCIL ON AGING—Resolution # 2014–11

TITLE: NICOA Elders Support the Social Security Administration Accountability Act of 2014

WHEREAS, we, the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

WHEREAS, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native (AI/AN) Elders. NICOA submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

WHEREAS, many AI/AN tribal Elders live in remote areas and prefer to receive Social Security information and guidance from a trained professional in-person at the local Social Security Administration (SSA) field offices instead of transactions using potentially confusing and intimidating online databases. Those serving AI/ANs can answer questions more readily and ensure that they understand the various benefits programs available to them from the Social Security Administration; and

WHEREAS, these important field offices provide valuable services to vulnerable Elders who may depend on their Social Security benefits as a sole source of income; and

WHEREAS, these Social Security Field Offices are facing closure and will therefore limit efficient, culturally sensitive customer service. These offices provide services that are critical to tribal Elders and reservation communities; and

WHEREAS, other provisions of the Social Security Accountability of 2014 call for submission of a budget estimate directly to Congress and the President, revises requirements that require inclusion of the number of cases pending at each hearing office and average processing time, requires the Commissioner to submit a detailed report outlining and justifying the process for selecting field offices to be closed, consolidated, or otherwise having limited access before the Commissioner can close any Social Security Administration (SSA) field office as well as requires the Commissioner to follow certain administrative procedures; and

NOW THEREFORE BE IT RESOLVED, that NICOA recognizes and supports the Social Security Administration's commitment to support and provide customer service in rural areas benefiting tribal communities and Elders; and

BE IT FINALLY RESOLVED, NICOA Elders support the Social Security Administration Accountability Act of 2014 (H.R. 3997) and urges that SSA field offices remain open and continue to provide excellent customer service; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of NICOA until it is withdrawn or modified by subsequent resolution.

NATIONAL INDIAN COUNCIL ON AGING—Resolution # 2014–12

TITLE: NICOA Elders Support the Supplemental Security Income Restoration Act

WHEREAS, we, the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise

promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

WHEREAS, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native Elders. NICOA submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

WHEREAS, Supplemental Security Income (SSI) is a federal program that provides monthly payments to people who have limited income and few resources. SSI is for people age 65 and older, as well as blind or disabled people of any age, including children; and

WHEREAS, over 50 percent of the AI/AN population aged 62–67 are projected to have some work limitation. Research has shown that adult AI/ANs are more likely to receive Supplemental Security Income and less likely to receive Social Security benefits. These numbers are projected to increase; and

WHEREAS, for about 60 percent of recipients, the SSI program is their only source of income. The maximum benefit is little more than \$700 a month. The financial constraints are so stiff that a growing number of older SSI recipients are homeless; and

WHEREAS, the Supplemental Security Income Restoration Act has been introduced both in the Senate (S. 2089) and the House. (H.R. 1601). This Act would update provisions in the program which are out of date concerning earned income, general income, and resources. It would also help the Social Security Administration streamline the claims process; and

NOW THEREFORE BE IT RESOLVED, that NICOA Elders do hereby support passage of S. 2089 and H.R. 1601 to support vulnerable AI/ANs and provide a more secure quality of life; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of NICOA until it is withdrawn or modified by subsequent resolution.

The National Congress of American Indians—Resolution #ATL–14–055

TITLE: Gerontology and Geriatric Research to Benefit American Indian/Alaskan Native (AI/AN) Elders & Tribes

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, health care providers and the general public do not have access to adequate gerontology and geriatric data and information. There is a lack of relevant, immediate, applicable community based and inter-disciplinary data. This lack of information contributes to AI/AN health disparities, maltreatment, exclusion, gaps, and other gerontological health issues; and

WHEREAS, research is needed to promote systematic investigation, development, testing, and evaluation centered on health issues central to the Native community in order to create a continual dialogue between investigators, health care providers, and the Native communities in general; and

WHEREAS, the lack of research, evidence based data, and information specific to AI/AN Elders decreases opportunities for tribes to seek alternative funding placing the AI/AN entities at a disadvantage for accessing potential resources to support aging services. Health care data and information help to enhance opportunities to secure funding resources for a variety of care services by tracking death rates and such chronic illnesses and acute diseases. The evidence based findings and interviews will contribute to health based equity and promote healthier lifestyles and establish common ethical and research practices such as community based participatory research (CBPR) that gains the trust of the AI/AN community by observing cultural values.

NOW THEREFORE BE IT RESOLVED, that NCAI hereby requests that the U.S Department of Health and Human Services increase opportunities and direct funding for gerontology and geriatric research to AI/AN entities; and

BE IT FURTHER RESOLVED, that the Centers for Disease Control and Prevention, and the National Institutes of Health increase research for and by AI/AN organizations with direct set aside funding from an increased Congressional appropriation; and

BE IT FINALLY RESOLVED, that this resolution is policy of NCAI until it is withdrawn or modified by subsequent resolution.

The National Congress of American Indians—Resolution #ATL-14-057

TITLE: Support for a National American Indian/Alaska Native Hearing on Aging

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, AI/ANs are struggling with many issues that are unrecognized by policy makers as poverty increases, substandard housing deteriorates, health care dollars shrink, the cost of living increases, veterans suffer long waits and lack of care, and federal funding decreases. Native Elders age in greater numbers and require home and community-based long term services and supports, raise grandchildren, live with Alzheimer's Disease, provide caregiving as they cope with their own aging challenges, work for acceptance of LGBT Elders; and

WHEREAS, Congress has stated that "older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities" (42 U.S.C. 3057a); and

WHEREAS, in the 36 years since Title VI was added to the Older Americans Act, funding and services for Title VI have never been comparable to funding for Title III, leaving older American Indians and Alaska Natives without needed services to allow them to live vital, independent lives, as long as possible in their homes and communities. These immediate concerns require a broader audience to create awareness and a sense of the crucial, imperative nature of the problem.

NOW THEREFORE BE IT RESOLVED, that NCAI request full Congressional Hearings on the Needs of American Indian, Alaskan Native and Native Hawaiian Elders to enable tribal leadership to testify on the status and unmet needs of tribal Elders. These hearings should also be held throughout Indian Country to allow for our esteemed Elders attendance and participation; and

BE IT FURTHER RESOLVED, that the congressional hearings be co-sponsored by the Senate Select Committee on Aging and the Senate Select Committee on Indian Affairs; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

The National Congress of American Indians—Resolution #ATL-14-059

TITLE: Request for Comparable Equity between Title III State Services and Title VI Tribal Services

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Administration on Aging (AoA) grants are awarded under Title VI to American Indian tribal organizations, Alaskan Native organizations, and non-profit groups representing Native Hawaiians. Grants fund supportive and nutrition

services for American Indian/Alaska Native (AI/AN) Elders. Grants are awarded to more than 250 tribal organizations and 2 Native Hawaiian organizations. In addition, family caregiver grants have been awarded to 218 Title VI organizations; and

WHEREAS, the Older Americans Act states in Title VI that “it is the purpose of this Title to promote the delivery of supportive services, including nutrition services, to AI/ANs and Native Hawaiians that are comparable to services provided under Title III. However, the provision of “comparable services”, has not been achieved due to insufficient funds for this Title; and

WHEREAS, NCAI acknowledges the tremendous efforts of Title VI Directors and the creative approaches they develop to cope with budget shortfalls. Approximately two thirds of the grants to AI/AN tribes or consortia of tribes are for less than \$100,000. This funding level is expected to provide services for a minimum of 50 Elders for an entire year. Those tribes receiving more than or at least \$100,000 serve between 200–300 Elders. Many tribes are not able to meet the five day per week meal requirement because of insufficient funding and are serving congregate meals only two or three days per week.

NOW THEREFORE BE IT RESOLVED, that NCAI requests that the Administration on Aging (AoA) determine the eligible number of AI/ANs in each designated service areas, and request the AoA evaluate the data and trend of the growing # of AI/AN elders in each designated service area and utilize such data in its budget request to Congress; and

BE IT FURTHER RESOLVED, that NCAI requests increased training for Title VI service providers that include new and innovative ways to improve Indian Elder access to social services. Funding for training should be separate from funds used to provide direct services; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

The National Congress of American Indians—Resolution #ATL–14–063

TITLE: Support the Reauthorization of the Older Americans Act

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and **WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Older Americans Act is the key legislative framework for developing, coordinating, and delivering home and community based services that allow American Indian/Alaska Native Elders to maintain their independence. The Title VI program of the Older Americans Act provides for supportive and nutrition services which aid AI/ANs across the country. The Act also authorizes the only federal workforce program which provides training to help transition low income Elders into suitable employment in their community. The Act also provides for a long term care ombudsman program to provide those living in long term care facilities with protection of their rights and wellbeing; and

WHEREAS, despite these and many other important provisions, the Older Americans Act was last reauthorized in 2006; its authorization expired in 2011. This delay means that even more Elders will not receive services as the demand is only projected to increase. The population of American Indian/Alaska Natives age 65 and older is expected to grow by 116 percent by 2030. Additionally the Older Americans Act is subject to sequestration, resulting in unnecessary and harmful cuts each year through 2021; and

NOW THEREFORE BE IT RESOLVED, that NCAI hereby supports legislation that modernizes and reauthorizes the Older Americans Act to provide adequate funding for delivery of nutrition services and elderly support; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

The National Congress of American Indians—Resolution #ATL–14–064

TITLE: Support Social Security Administration Consultation with Tribal Governments Prior to Closure of Any Field Offices

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and **WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, many AI/AN tribal Elders live in remote areas and prefer to receive Social Security information and guidance from a trained professional in-person at the local Social Security Administration (SSA) field offices instead of transactions using potentially confusing and intimidating online databases. Those serving AI/ANs can answer questions more readily and ensure that they understand the various benefits programs available to them from the Social Security Administration; and **WHEREAS**, these important field offices provide valuable services to vulnerable Elders who may depend on their Social Security benefits as a sole source of income; and

WHEREAS, these Social Security Field Offices are facing closure and will therefore limit efficient, culturally sensitive customer service. These offices provide services that are critical to tribal Elders and reservation communities; and **WHEREAS**, legislation is needed that calls for submission of a budget estimate directly to Congress and the President, revises requirements that require inclusion of the number of cases pending at each hearing office and average processing time, requires the Commissioner to submit a detailed report outlining and justifying the process for selecting field offices to be closed, consolidated, or otherwise having limited access before the Commissioner can close any Social Security Administration (SSA) field office as well as requires the Commissioner to follow certain administrative procedures.

NOW THEREFORE BE IT RESOLVED, that NCAI recognizes and supports the Social Security Administration's commitment to support and provide customer service in rural areas benefiting tribal communities and Elders; and

BE IT FURTHER RESOLVED, NCAI supports legislation that would require the Social Security Administration to consult with Tribal governments prior to closure of any field offices and to take into account any potential impact it may have on tribal communities prior to closure; and **BE IT FURTHER RESOLVED**, that NCAI will hereby be committed to working with the Social Security Administration to ensure adequate consultation is conducted with Tribal governments in consideration of any field office closures; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

The National Congress of American Indians—Resolution #ATL-14-065

TITLE: Support for Modernization Legislation of the Supplemental Security Income Program

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, Supplemental Security Income (SSI) is a federal program that provides monthly payments to people who have limited income and few resources. SSI is for people age 65 and older, as well as blind or disabled people of any age, including children; and

WHEREAS, over 50 percent of the AI/AN population aged 62-67 are projected to have some work limitation. Research has shown that adult AI/ANs are more likely to receive Supplemental Security Income and less likely to receive Social Security benefits. These numbers are projected to increase; and

WHEREAS, for about 60 percent of recipients, the SSI program is their only source of income. The maximum benefit is little more than \$700 a month. The financial constraints are so stiff that a growing number of older SSI recipients are homeless.

NOW THEREFORE BE IT RESOLVED, that NCAI hereby supports legislation that updates statutory provisions in the program which are out of date concerning earned income, general income, resources, and helps the Social Security Administration streamline the claims process to support vulnerable AI/ANs and provide a more secure quality of life; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

PREPARED STATEMENT OF HON. TIM BALLEW II, CHAIRMAN, LUMMI NATION

Dear Committee Members:

The Lummi Nation has many goals and priorities for 2015 and we urge the Committee to consider adding priorities to the 114th Congress at the request of the Lummi Nation. As a federally recognized tribe and sovereign nation, like many other tribes have issues that need to be addressed. Many of our issues can be addressed, fixed or heard on a federally level with our Trustee such as Congress. We request the Senate Committee on Indian Affairs to include the following for Indian Country Priorities for the 114th Congress:

- 1) *Treaty Rights at Risk*: The Lummi Nation like many tribes have treaty rights and some of those rights included but not limited to the right of taking fish at usual and accustomed ground and stations. The Lummi Nation is facing threats of our harvest and need more support from our Trustee who have a trust responsibility and fiduciary obligations to protect these rights. Also, we call for a response to the work of Billy Franks white paper on Treaty Rights at Risk.
- 2) *Job Creation and Economic Development*: The Lummi Nation is a growing nation and we need to be able to create jobs and economic development growth to supply or help our community with gaining employment. Gaming cannot be our only source of income and economic development will be a stream of income for the community and Nation.

Thank your for considering our request for the record and to add to the list of priorities in Indian Country for the 114th Congress.

