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S. HRG. 116–150

LENDING OPPORTUNITIES: OPENING THE DOOR TO HOMEOWNERSHIP IN INDIAN COUNTRY

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

OCTOBER 16, 2019

Printed for the use of the Committee on Indian Affairs

U.S. GOVERNMENT PUBLISHING OFFICE
39–745 PDF WASHINGTON : 2020

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LENDING OPPORTUNITIES: OPENING THE DOOR TO HOMEOWNERSHIP IN INDIAN COUNTRY

WEDNESDAY, OCTOBER 16, 2019

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

The Committee met, pursuant to notice, at 2:41 p.m. in room 628, Dirksen Senate Office Building, Hon. John Hoeven, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN HOEVEN, U.S. SENATOR FROM NORTH DAKOTA

The CHAIRMAN. We will call the hearing to order.

Thank you to all of the witnesses for being here.

This is an oversight hearing entitled, Lending Opportunities: Opening the Door to Homeownership in Indian Country. Today, we will hear from Federal agencies and tribal leaders on how Federal financial tools, such as guaranteed and direct loans, are being used in tribal communities to promote homeownership.

The dream of homeownership is a foundational principle in any society. Home ownership provides individuals and families with stability, safety, and the opportunity to build better communities. This principle holds true in tribal communities as well.

Credit also plays an important role in providing housing opportunities. However, rural and tribal communities often have a difficult time accessing credit, and the ability to secure a mortgage on trust lands. Traditional models of financing do not always work in tribal communities. In Indian Country, title issues as well as difficulties in collateralizing tribal assets may make investors wary of financing tribal applicants.

Local community banks and community development financial institutions can help fill those investment needs. For instance, in my home State of North Dakota, there are five community development financial institutions that have awarded nearly $6.1 million from the CDFI Fund at the Department of Treasury.

Federal financial products, such as guaranteed and direct loans, may also serve as resources for communities where traditional mortgage origination practices may not be offered. Today, we will hear from the Department of Housing and Urban Development on how one of the most used guaranteed loan products, Section 184 loans, are working in Indian Country.

As the Administration continues to prioritize economic growth, such as regulatory reform, it is important that these positive impacts are also felt in Indian Country. That is why on January 24th, 2019, I reintroduced the Indian Community Economic Enhancement Act of 2019 with Senator McSally. The ICE Act, Senate Bill 212, aims to address the disparity in economic opportunities tribal communities face by amending existing law to increase access to capital, attract investment to Indian communities, and lessen the cost of providing financial services to tribal members by reducing Federal bureaucracy.

The Committee reported the bill favorably on January 29th. The Senate passed S. 212 on June 26th. I look forward to seeing this legislation taken up by the House, signed by the President, and enacted into law.

Accessing credit to promote homeownership is, in many cases, the most important investment that a family will make. That is why we are holding this oversight hearing today. I look forward to hearing more about how Congress can make a difference in promoting credit access and homeownership in Indian Country.

Before I turn to Vice Chairman Udall for his opening statement, I want to thank all of the witnesses who are here today. I want to especially welcome Hunter Kurtz to the Committee. I understand this is your first hearing in D.C. since being confirmed as the Assistant Secretary of Public and Indian Housing. Welcome.

I also want to welcome Patrice Kunesh. I understand you will be moving on from the Federal Reserve Bank shortly. I want to thank you for your work in Indian Country as well.

With that, I will now turn to what you have all been waiting for and that is to hear from Vice Chairman Udall.

STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Senator UDALL. Thank you, Chairman Hoeven.

The topic of today's hearing, Lending and Homeownership in Indian Country, is a very important one.

Thank you to all of our witnesses here today for traveling to Washington, D.C. for this hearing. Special thanks to Governor Zuni, from New Mexico's Isleta Pueblo, for being here today. Governor, it was great to see you last week in Albuquerque for the Committee's field hearing on uranium mining and at the groundbreaking for the visitor's center at Valle de Oro National Wildlife Refuge, where you honored us with the opening prayers in your native Tiwa language.

Earlier this month, I visited your pueblo where I had the honor of presenting former Governor Torres and former Councilman Lujan with replacement medals for their service in Vietnam. I want to thank them again for their service to our Country.

Turning to today's hearing, homeownership has long been the epitome of the American Dream. Yet, even with Federal programs like the Department of Housing and Urban Development's Section 184 Indian Home Loan Guarantee Program, homeownership remains only a dream for too many in Indian Country.

Structural barriers, including difficulty securing home loans on trust land, continue to prevent many Native Americans from own-

ing their own homes. This Administration's ongoing failure to provide timely real estate services to tribal borrowers and lenders has only exacerbated the problem.

In fact, the Center for Indian Country Development recently examined the challenges to mortgage lending in Indian Country and reported, "promoting homeownership as a method of increasing Native American equity and assets may be less effective than for other populations." The dream of homeownership should be attainable to everyone, no matter where they live in the United States. It should not be more expensive for tribal members to live on rather than off reservation.

That is why the innovative work being done by the Isleta Pueblo's Tiwa Lending Services, a Native Community Development Financial Institution, or CDFI, is so important. Tiwa is directly addressing existing barriers to tribal homeownership primarily by providing financial services such as mortgage loans, credit counseling, Native youth financial literacy classes to Pueblo residents and those in its surrounding communities, and with zero percent default rate on its home and consumer loan portfolios. Tiwa is doing a fantastic job.

Native CDFIs like Tiwa are uniquely qualified to address the needs of tribal members and ensure that borrowers do not default. With CDFIs like Tiwa doing such great work in Indian Country, I am left scratching my head why the Administration has zeroed out the funding for Native CDFIs in its annual budget request to Congress for the last three consecutive fiscal cycles.

Director LaCounte and Assistant Secretary Kurtz, I look forward to hearing from you both specifically on this important topic so that the Committee may better understand how the Administration is addressing mortgage lending and homeownership barriers in Indian Country.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Vice Chairman Udall.

Senator Tester.

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

Senator TESTER. I do have an opening statement, Mr. Chairman.

I want to start by thanking you and Senator Udall for holding this hearing entitled, Lending Opportunities: Opening the Door to Homeownership in Indian Country. Hopefully, when this hearing is done, we will have some ideas on how to do that.

To the panel, your testimony is going to be critically important. I want to welcome you all, especially Nate Mount. Nate, it is good to have you here. Nate is one of those guys who left home for a while, went off and got his Juris Doctorate, and he came back to help the Ft. Belknap community. And his dad, Harlan, is here, who is a mainstay to the Ft. Belknap Tribe. We want to thank you both for being here and all the folks who are testifying.

Look, we could all go on and on and on about what is going on in Indian Country for housing but the fact of the matter is if you want to have a healthy community, you have to have housing. I think if the folks who are here at the table and other folks that are in the audience, some of us have been up and seen the situa-

tion in Indian Country. Quite frankly, the housing is horrible. It is just like inner city poverty, quite frankly, on many of the large land-based tribes in this Country and in Montana. It is no exception.

We have work to do, because it impacts everything. It impacts getting businesses into Indian Country, it impacts getting teachers into Indian Country and law enforcement into Indian Country. You can just go down the list. Everything has the foundational issue of housing. It needs some attention in Indian Country.

I applaud the Chairman and the Ranking Member for having this hearing. I look forward to getting some good ideas to make getting access to capital easier and getting access to homeownership easier, because quite frankly, what we have done so far has not been near enough. It just has not worked to the extent it needs to work. So I look forward to the results of this hearing.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Tester.

With that, we will turn to our witnesses. Our witnesses today are the Honorable Hunter Kurtz, Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development, here in Washington, D.C.; the Honorable Max Zuni, Governor, Isleta Pueblo, Isleta, New Mexico; the Honorable Nathaniel "Nate" Mount, Council Member, Ft. Belknap Indian Community, Harlem, Montana; Mr. Darryl LaCounte, Director, BIA, U.S. Department of the Interior; and Ms. Patrice Kunesh, Director, Center for Indian Country Development, and Assistant Vice President, Federal Reserve Bank of Minneapolis, Minnesota.

Thanks to all of you for being here. We will begin with Mr. Kurtz.

STATEMENT OF HON. R. HUNTER KURTZ, ASSISTANT SECRETARY, PUBLIC AND INDIAN HOUSING, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. KURTZ. Good afternoon. Thank you, Chairman Hoeven, Vice Chairman Udall and members of the Committee, for this opportunity to discuss lending and homeownership in Indian Country, and the important programs that we administer at HUD to further these important goals.

I would also like to acknowledge and thank the Committee's staff, not only for coordinating this hearing, but for their ongoing engagement with HUD staff on issues that impact Native American communities.

My professional career at HUD spans multiple Administrations. I have served both as a career civil servant and as an appointee. I am a houser at heart and a practitioner of HUD programs, and a true believer in the department's mission.

Prior to coming back home to HUD in 2017, I was the Deputy Director of the Housing and Revitalization Department for the City of Detroit. This experience has helped me more deeply understand housing policy on the local level.

My time in Detroit also reinforced one of the fundamental lessons I have learned throughout my career, a one size fits all for affordable housing does not work. The lesson certainly also applies

to our Nation's American Indian, Alaska Native and Native Hawaiian communities.

As you know, the Office of Public and Indian Housing is responsible for the management, operation, and oversight of HUD's Native American Housing Community Development Programs. These programs serve approximately 580 different, unique tribal communities. Our staff works every day to strengthen our tribal partnerships and develop programs that better meet the needs of all our Native communities.

As the Assistant Secretary for Public and Indian Housing, I have had the opportunity to work with and visit tribal communities and learn firsthand about the housing issues and challenges tribes face. Most recently, I had the pleasure of visiting the Pueblo of Isleta in New Mexico. There I saw firsthand the great work their housing authority is doing under our programs. Specifically, I learned about how the Pueblo is leveraging critical Indian housing block grant dollars to construct new homes in culturally appropriate ways that meet unique needs of the community.

Unfortunately, I did not get to meet the Governor but it is a pleasure to meet him today. Sir, your folks are doing some great work there.

Opportunities like this have allowed me to hear directly from tribal leaders and see what we need to do to strengthen and improve HUD's programs. Far too many Native American communities struggle with severe overcrowding, lack of affordable housing and infrastructure challenges, all of which result in significant barriers to economic opportunity.

Like so many others, Native Americans would like to own their own homes. However, various barriers make lending in Indian Country difficult. In addition to factors common to underserved markets in rural areas, the land is often held in trust by the Federal Government and can't be sold or readily mortgaged.

To address this need, HUD Section 184, the Indian Home Loan guarantee Program, provides a 100 percent guarantee to lenders and makes lenders whole in the event of a borrower's default. The Section 184 program has been proven to be very popular and has grown exponentially from guaranteeing less than 100 loans in 1994 to over $7 billion in guarantees today.

Although the volumes in loans guaranteed has increased significantly and the program has become more complex, the regulatory framework that governs the program has remained largely unchanged. Our hope is that updated regulations will limit fraud, waste, and abuse as well as help families in their homes in recognition of our government-to-government relationship. HUD has conducted many consultation sessions with tribes throughout the rulemaking process and intends to continue to do so as the rulemaking moves forward.

In my experience, regulations that have been drafted in Washington need to be mindful of how they are implemented at the local level. What works for families in Detroit may not necessarily work for families in Indian Country.

Thank you again for this opportunity to appear before you today. My office has submitted official written testimony for your consid-

eration which provides greater detail on the status of our programs.

I am proud of our dedicated staff who works tirelessly alongside our tribal partners to find solutions to these pressing needs. I am encouraged by the progress our programs continue to make.

I look forward to addressing your questions and providing some additional information on the status of HUD's programs in Indian Country.

Thank you, sir.

[The prepared statement of Mr. Kurtz follows:]

PREPARED STATEMENT OF HON. R. HUNTER KURTZ, ASSISTANT SECRETARY, PUBLIC AND INDIAN HOUSING, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Introduction

Thank you Chairman Hoeven, Vice Chairman Udall, and Members of the Committee for this opportunity to discuss lending and homeownership in Indian Country and the important programs that we administer at the U.S. Department of Housing and Urban Development (HUD) to further these important goals. I would also like to acknowledge and thank the Committee's staff, not only for coordinating this hearing, but for their ongoing engagement with HUD staff on issues that impact Native American communities across our Nation.

As the Assistant Secretary for Public and Indian Housing, I have had the opportunity to work with and visit tribal communities and learn firsthand about the housing issues and challenges that Tribes face. It has also given me the opportunity to hear directly from tribal leaders on what we need to do to strengthen and improve HUD's programs. Far too many Native American communities struggle with severely overcrowded housing, lack of affordable housing, and infrastructure challenges—all of which result in significant barriers to economic opportunity. HUD staff work tirelessly alongside our tribal partners to find solutions to these difficult problems.

Section 184 Indian Home Loan Guarantee

Like so many others, many Native Americans would like to own their own homes. However, various barriers make lending in Indian Country difficult. In addition to factors common to underserved markets and rural areas, the land may be held in trust by the Federal Government, and cannot be sold or readily mortgaged.

One of the primary tools available to address these barriers is HUD's Section 184 Indian Home Loan Guarantee (Section 184) program. The program was established in 1992 to encourage private lenders to make home loans to Native Americans in eligible Indian areas. HUD provides a 100-percent guarantee to lenders and makes lenders whole in the event of a borrowers' default. The guarantee encourages lenders to serve a population that has traditionally been viewed as high risk and areas, such as Indian reservations, that have had difficulty attracting private capital because of their remoteness and the status of the land. Ultimately, the Section 184 program helps Tribes promote the development of sustainable reservation communities by making homeownership a realistic option for tribal members.

Eligibility

The Section 184 program provides access to market-rate, private mortgage capital, and is not subject to income restrictions. The program does not have minimum requirements for credit scores and allows for alternative forms of credit and non-traditional income to meet the unique needs of tribal communities. The program gives tribal members from across the income spectrum the choice of living in their Native community by providing access to mortgage capital. In addition to individual tribal members, Tribes and tribally designated housing entities (TDHEs) are eligible borrowers. This benefit of the program makes it possible for Tribes and TDHEs to address housing shortages by developing and financing rental housing or by promoting homeownership opportunities for tribal members through lease purchase programs.

According to HUD's 2017 Native American housing needs study, since its inception, the program has served as a major source of mortgage financing for Native American families, both on and off reservations. The program has been proven to be very popular and has grown exponentially from guaranteeing less than 100 loans in 1994 to, at its peak, guaranteeing over 4,000 loans—worth over $700 million—in 2017.

Regulations and Legislative Proposals

Although the volume of loans guaranteed has increased significantly, the regulatory framework that governs the program has remained largely unchanged. To address this issue, HUD has begun working to update the Section 184 regulations. In February 2018, HUD started engaging in tribal consultation to revise the program's regulations—even before any regulations were drafted. Since then, HUD has held 15 in-person and three teleconference consultation sessions with Indian tribes. A draft proposed rule has been developed and placed into clearance. Once the rulemaking process is complete, the updated regulations will improve and modernize the program, help borrowers stay in their homes, provide clarity to participating lenders, and ensure the program remains sustainable for the future.

In addition to this rulemaking, in recent years, HUD has also proposed various legislative fixes to the Section 184 program authorizing statute—the Housing and Community Development Act of 1992. For instance, we've proposed amending the Act to authorize HUD to require lenders that participate in the direct guarantee process to indemnify HUD for losses in cases involving fraud and misrepresentation. We've also proposed changes that would allow HUD to periodically review the rates of defaults and claims of these direct guarantee lenders to ensure that they do not pose an unacceptable risk to the program. All of these proposals were put forward to ensure that the program remains strong, sustainable, and continues to meet the needs of Native American borrowers well into the future.

Federal Partners

Mortgage lending on tribal trust land can be a time-consuming process that reduces the appeal of lending on tribal trust land, even with the Federal guarantee. This is in part because the process can involve obtaining leases, securing final certified title status reports from the Bureau of Indian Affairs (BIA), completing National Environmental Policy Act (NEPA) reviews, securing appraisals, and other required transactions.

To help address these barriers, HUD has been working with our Federal partners to reduce the administrative barriers. We routinely collaborate with the Department of the Interior to share information, improve communication, and break down silos.

For example, HUD partnered with the BIA to host a training session for lenders and BIA staff on mortgaging tribal trust land. The session was oversubscribed and provided an opportunity for lenders, HUD, and BIA staff to better understand one another's processes. Additionally, in July 2019, the Department of the Interior published their *Indian Affairs Mortgage Handbook*, which outlines the mortgaging lending process when dealing with properties on trust land. The *Handbook* provides important guidance to BIA staff for processing leasehold and trust land mortgages on trust or restricted land; and specifically, how to review and analyze a mortgage loan request from a lender using a minimum, streamlined, and standardized process.

Following our training session and publication of the *Indian Affairs Mortgage Handbook*, BIA processing times improved. For example, BIA offices in several areas of the country improved their performance in the issuance of final certified title status reports. Progress has been made, and HUD and BIA will continue efforts to improve and streamline the loan process on tribal lands.

Title VI

HUD's Title VI Loan Guarantee program is another critical resource for tribal communities. This loan guarantee program allows a Tribe to pledge a share of its annual Indian Housing Block Grant (IHBG) allocation as collateral to attract private capital and other funding resources to carry out affordable housing and community development projects. By leveraging multiple sources of funding, Tribes can significantly increase their purchasing power and develop large-scale housing projects.

Some Tribes have used both of HUD's tribal loan programs to help finance housing developments. For example, a Tribe can take out a Title VI loan to develop affordable housing and on-site infrastructure. Then, the Tribe can use the revenue generated from selling the home to a tribal member—using a Section 184 loan—to repay the Title VI loan. This allows the Tribe to start the process over again and continue to increase its housing stock.

For example, in New Mexico, the San Felipe Pueblo Housing Authority successfully used financing under the Title VI and the Section 184 programs to leverage many other sources of private and public funding to build a 150-unit subdivision for tribal members. Not only did the housing authority create much needed new housing, but in the process, it also exponentially increased the size of its force account crew and is now one of the largest employers on the reservation. Similarly, in Alaska, the Cook Inlet Housing Authority was able to use this framework to add 79 new

housing units to its portfolio over the past six years—including 13 units for low- to moderate-income residents.

Indian Housing Block Grant

Of course, the Indian Housing Block Grant program is also a critical resource for low-income Native American families looking to become homeowners.

IHBG is the single largest source of housing assistance to Native Americans and can help Tribes support homeownership in creative ways. For example, Tribes can use their annual block grants to provide acquisition and down payment assistance to first-time homebuyers. Funds can also be used to fund housing related services like housing counseling, homebuyer education, and financial literacy. Additionally, these funds can be leveraged with other funding sources, like Low-Income Housing Tax Credits, to develop rental housing for low-income Native American families and alleviate overcrowding.

Earlier this month, I had the pleasure of visiting the Pueblo of Isleta to see first-hand all the great work the Isleta Pueblo Housing Authority is doing under our programs. They are using these critical IHBG dollars to construct new homes in culturally appropriate ways that meet the unique needs of their community. For instance, they have built a customized 5-bedroom home that can appropriately house extended family members, are renovating homes for elders in the historic central village using traditional adobe construction, and have even used locally-sourced lava rock bricks to construct modern homes in their efforts to address the shortage of housing.

As you can see, the flexibility of the IHBG program has proven to be a significant tool in addressing the shortage of housing, helped alleviate overcrowding, and furthered homeownership and self-sufficiency in Indian Country.

Best Practices and Technical Assistance

Finally, HUD recognizes the importance of assisting Tribes and TDHEs with increasing their capacity and technical expertise. This past year, HUD hosted national best practice webinars highlighting tribal projects that have leveraged IHBG funds with both Section 184 and Title VI loans. The best practices include case studies that explore housing development projects and financing methods in more detail. These well-attended webinars generated additional interest in creative ways to develop housing in Indian Country and fostered mentoring relationships between Tribes and TDHEs.

HUD is also committed to exploring ways to use our technical assistance funding to help Tribes and TDHEs enhance their development efforts and to better leverage the assistance they receive through the dissemination of successful tribal housing strategies.

Conclusion

In conclusion, HUD programs, such as Section 184, Title VI, and IHBG, are successful examples of Federal programs that work to bring the dream of homeownership to Native American communities. We are excited about all the amazing work that has been done so far by Tribes under these programs and look forward to continuing to find ways to make homeownership and access to capital a reality for Tribes and tribal members across the country.

Thank you again for this opportunity to appear before you today.

The CHAIRMAN. Thank you.

Governor ZUNI.

STATEMENT OF HON. MAX ZUNI, GOVERNOR, PUEBLO OF ISLETA

Mr. ZUNI. [Greeting in Native language.]

Thank you, Chairman Hoeven, Committee members and especially, Senator Tom Udall. Thank you for having us today. I really appreciate it.

I am Max Zuni, the Governor from the Pueblo of Isleta. It is an honor and privilege to be here today to voice our opinions, our issues, and our requests. Thank you so much for having this testimony today.

I am the Governor from the Pueblo of Isleta. I have been Lieutenant Governor for eight years. This is my first term. It will be

nine years that I have been in office. My whole goal in this kind of administration is, of course, for our younger people. We have close to 5,000 tribal members. We are located in the biggest city in New Mexico, which is Albuquerque. We are ten miles south, right in the Rio Grande Valley.

We have over 300,000 acres of land that we have to maintain. Our community is very large. We have several communities within the Pueblo.

Our housing, as the Honorable Mr. Kurtz said, is working very hard building homes for our community members through the HUD program. We formed the CDFI about six years ago and we are just learning how to run that program. It is very effective. We have over almost 80 members in that group now with beautiful homes. They are very proud of what they are building.

We, of course, have a lot of young tribal members. We encourage them to get educated, to go to college, to get a career, and to get a good job. Our problem is that when they do get that and they get low income, they can't qualify for some of the home projects. They can't qualify for some of the scholarships. They can't qualify for some of the school systems and programs that we have. It is a deterrent for our younger people to be told that you make a high income and you can't qualify for things. Luckily, with the CDFI program we have, they can come and get help to have a new home.

We encourage a lot of the tribal members in other pueblos and other tribes to look into these programs. It works. It helps our community. They do have their own design of what buildings they want. They find their own contractors.

Of course, the problem we have is the stipulations that are out there. We are considered in a flood plain, so now they can't be supported with some of these projects. It would be nice for them to talk to us to make sure we are not in those kinds of situations.

The process that takes two years to get this leasing agreement through BIA, we took over that project now, but it is costly for the tribes. They have to hire people, specialized people. Right now, we have to get a biologist, we have to get a computer service, we have to get the software, so the tribes have to know, once we take over that responsibility, what the cost is going to be to us.

The HEARTH Act, which is really great, thank you for having it, but of course, that is because of the flood plain issues and the funding source. As they stated when we first requested it, we got close to a little over $1 million, which really helped us in the formulation of the CDFI. The tribe recently donated a little over $3 million to help that program.

But we have a waiting list of 130 people. We now have plans, and I know you have seen it, we have plans to build another 132 homes. It is not just for tribal members. You have to understand. The majority of our people at home are married to non-tribal members, they have young kids that are living there. So we support a lot of our communities within the Bernalillo County and Valencia County, that one of the largest counties in the State of New Mexico. So we help a lot of community members.

We do have a casino and resort that provides funding that supports programs within the tribe. They do contribute a little. Right now I am working on a revitalization program that the tribe has

offered to do homes within the village proper, but of course, I can't get funding for it, Federal funding. I am hoping that we can get that.

The problem, again, is some of our tribal members, when they do have a home built, they can't qualify for a second home within the village proper. Traditionally, we have to have some of our tribal members living within the village proper to revitalize our pueblo. We hope one of these days we can really generate funding to revitalize our pueblos to come back from having old homes and renovate them so our community members can live within the pueblo property.

The programs are great. I really enjoy all the programs. I enjoy BIA and the assistance they give me. I talk to them constantly. But there are certain things within these policies that I wish we could really change to help us to expedite some of these lease agreements, to expedite some of these contracts that we have. It takes almost two years to get some of these things to go through BIA. Luckily with our CDFI, within two or three months, they are done. Our community members are happy that they can get a home built within a year.

I am proud because my youngest daughter just went through that, and she has a beautiful home now. She is a really good example of how that CDFI works, the loan program. She went to the classes; she was taught how to budget her money. She had to get certified and now she is very consistent in her payments and everything. So they are good classes.

That, and we have classes for the youth of the elementary school, high school and the colleges. They go to a symposium for two days learning about credit. That is how Tiwa Lending runs that program.

I wish a lot of the tribes and communities, not only for the Native Americans but for all the high school kids and the college kids, to go to those kinds of symposiums to learn about how to run their credit and how to manage their funds, and when they decide to buy a home, how to manage it. Our kids are so excited after they finish that. They learn how to budget their money and they don't get in debt.

So I appreciate it. I thank you so much for having this today. I hope we can work things out. I applaud all of you for being here today. Thank you, Senators, for giving us this time to express our opinions, and our concerns, and our issues. I hope we can remedy them.

Each and every one of you are always, always invited to the Pueblo of Isleta, to tour it. We are trying as hard as we can to have a good community. Thank you so much.

[The prepared statement of Mr. Zuni follows:]

PREPARED STATEMENT OF HON. MAX ZUNI, GOVERNOR, PUEBLO OF ISLETA

Dear Honorable Chairman Hoeven and Members of the Committee:

Introduction

Ma Gu Warn. Greetings. My name is Max Zuni. I am the Governor of the Pueblo of Isleta. The Pueblo of Isleta is one of nineteen (19) Pueblos in New Mexico and one of twenty two (22) tribes in New Mexico. The Tiwa language, the language spoken by the Pueblos of Isleta, Sandia, Taos, and Picuris, is still spoken in the Pueblo

and we continue to live according to the centuries old traditions of our ancestors. The livelihood of many Isleta residents continues to be farming, ranching, and sale of arts and crafts and traditional foods.

Isleta Pueblo is surrounded by Albuquerque to the north and the small towns of Bosque Farms and Los Lunas to the south. The Isleta Indian Reservation has a land base of 330 square miles within two counties, Valencia and Bernalillo. Isleta Reservation lands consist primarily of tribal trust lands. Isleta residents live on both the western and eastern banks of the Rio Grande River. The village, located on the western bank of the Rio Grande River, remains the cultural and spiritual center of the Isleta people and continues to be inhabited by a large portion of the Pueblo's members. A large portion of Isleta's residential areas are in flood zones as mapped by the Federal Emergency Management Agency (FEMA). As discussed below, this has created a major challenge in housing and community development.

Demographics of Isleta Pueblo

According to the 2017 U.S. Census data 3,980 people live in Isleta.[1] Isleta Census data shows our population as 4,200. Using U.S. Census data, 3,738 of Isleta residents (or 93 percent) are American Indian or Alaska Native (AlAN). Those that aren't AlAN are family members. There are 1,083 households in lsleta.1 According to U.S. Department of Housing and Urban Development (HUD} 2019 data, there are 579 low income households (more than half of all households} in Isleta Pueblo that need housing. This means that more than half of all households live in overcrowded conditions.

A large factor of overcrowded conditions is the lack of sufficient income for housing. In fact, AIANs living in Isleta Pueblo experience higher unemployment rates, lower income, higher poverty rates, and other disparities compared to the overall U.S. and compared to non-Native residents of New Mexico. Using HUD data,[2] 634 or 51 percent of Isleta's households are low income, with 21 percent falling below 30 percent of the median income. A study conducted in 2012 of New Mexico Native American children report that 28 percent of Isleta children live below the poverty level.[3] In the Pueblo, the individual poverty rate is 25.3 percent, compared to the individual poverty rate of 19.8 percent in New Mexico and the 12.3 percent individual poverty rate of the U.S. in total.[4]

Isleta Pueblo families generate less income than other families in New Mexico and the U.S. According to the 2017 American Community Survey (ACS}, the median household income in Isleta is $32,131, compared to the state median household income of $45,674 and the U.S. median household income of $55,322. Forty eight percent (48%} offamilies in Isleta have a single income earner, while 20 percent of families have no wage earner.[5] Residents of Isleta Pueblo experience higher unemployment compared to Native peoples off-reservation, who face disproportionate unemployment themselves. Isleta has an unemployment rate of 8.3 percent, more than the 6.7 percent unemployment rate for New Mexico and the 6.6 percent unemployment rate for the United States.

For the past 16 years, the Pueblo of Isleta has provided annual per capita payments to tribal members of anywhere between $1,000 and $2,000. These funds are for the most part immediately spent on disposable items. Per capita payments to minors age 18 and under are disbursed to parents or guardians. Before the creation of Tiwa, there was no financial education available to residents, including the youth of the Pueblo, who could potentially have a savings of $36,000 in principal by the time they are 18 years of age. While there is no data available, the most likely scenario is that most children's funds are used for disposable goods and little investment of children's funds.

While there are employment opportunities in the Pueblo, young families with small children are unable to join the workforce for lack of sufficient child care. Isleta's largest employers are the Isleta Pueblo government and the Casino and Resort which manages the casino and resort, the Lakes and RV Park, two gas stations, the Golf Course and the Family Fun Center. Even with these employment opportunities, many of these jobs pay at starting or close to starting wages. Consequently, many families live paycheck to paycheck, spending a large part of their income on rent, propane, vehicle payments, vehicle maintenance, gasoline, groceries and disposable goods.

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[1] Home Town Locator of the Isleta Pueblo, 2019 Demographic Data.
[2] HUD FY 2019 IHBG Estimate Allocation.
[3] Native American KIDS COUNT 2012 Special Report, Snapshots from the American Community Survey and other Data Sources.
[4] 2017 ACS data.
[5] 2017 ACS data.

The Creation of Tiwa Lending Services, Inc. (Tiwa)

To address the above and to take the driver's seat to spur economic development, Tiwa was created by the joint efforts of the Pueblo of Isleta, the Isleta Pueblo Housing Authority (IPHA) and the Community Development Financial Institutions {CDFI} Fund of the U.S. Department of the Treasury. Tiwa's mission statement has always been to encourage community development and improve the social and economic conditions of Isleta Pueblo residents and Native Americans in surrounding communities.

The effort began in 2009 when the Pueblo and IPHA sent representative to a Native CDFI training funded by the CDFI Fund. It was through this training, technical assistance provided by Oweesta, another Native CDFI, and technical assistance funds from the CDFI Fund, that Tiwa was created.

Tiwa was established as a not-for-profit Native CDFI on January 6, 2011 and received its 501 (c}(3} status on January 6, 2011. It was certified as a Native CDFI on September 17, 2013. Tiwa operates from a small 2- room tribal office located in the same building as the Governor's office. Operating under a 5-member Board of Directors and a staff of two (Sheila Herrera, Executive Director, and Miranda Lente, Loan Assistant/Homeownership Counselor}, Tiwa has in its 8 years of operation accrued a mortgage portfolio of 78 loans totaling $7.4 million. Additionally, Tiwa has originated $1,209,864.00 in consumer loans, including credit repair loans, personal loans, education loans, business loans, and debt consolidation loans, and has provided credit counseling to 885 Isleta tribal members and Native American youth. Tiwa works closely with its borrowers.

Tiwa's home loan portfolio and consumer loans have a less than 1 percent delinquent status. Additionally, Tiwa provides Financial Literacy and Education classes. To date, 2661sleta residents have received financial literacy certificates. Tiwa also sponsors youth financial education conferences and is a Voluntary Income Tax Assistance {VITA} site.

Lending and Financial Services in Isleta Pueblo

Lack of credit and lack of financial sophistication present barriers to obtaining fair financing to meet the housing and economic needs of the Isleta community. Other than Tiwa, there are no banking or lending services in Isleta. Prior to Tiwa, most borrowing took place among family members and payday lenders located outside the reservation. The presence of Tiwa and the ability of residents to take out consumer loans have resulted in a decreased use of residents using payday lenders located in the surrounding communities. An estimated 10 percent of applicants for home loans reveal that they use pay day lenders to repay other debts. Banks in the surrounding communities do not provide financial access to those with lower income and impaired credit. Nor do they provide financial education. The majority of Isleta Pueblo residents are first and second generation wage earners. Purchasing is largely done with cash. The primary use of financial services by Isleta residents and other Native Americans in the surrounding communities are for check cashing services, car loans, and farm equipment loans. Applicants for home loans state that they are turned down by other financial institutions due to lack of a down payment and/or poor credit history. These factors contribute to the reasons why Isleta residents are not able to obtain services from financial institutions.

Unique Benefits Provided by Tiwa:

Tiwa's products and services meet a double bottom line by providing social returns to its borrowers and financial returns to TIWA by having the following unique features:

All of Tiwa's lending products have flexible underwriting criteria. Applicants are not required to have credit history. Home loans, including loans for rehabilitation, have a maximum loan to value ratio of 100 percent. Mortgage loans do not require a down payment. Home loans have low interest rates equal to the 30 year Treasury bond rate {2.12 percent as of October 3, 2019} plus 1.375, lower than rates offered by other financial institutions. Closing costs and origination fees can be financed in the loan amount. Although financial institutions in Albuquerque provide home loans to some tribal members, the loans are limited to borrowers who have good credit and down payment funds. These loans have higher interest rates than Tiwa's loans.

2} Tiwa provides homeownership and financial education and small business workshops, changing the lives of future generations and the economic picture in Isleta. Here is a story of one such family:

Carrie (not her real name}, a member of the Isleta Pueblo, improved her credit score by 87 points in less than two years with the help of Tiwa. As a teen par-

ent, Carrie didn't realize the impact that her credit score could have on her life and her ability to access credit. Now, as a mother of five children and the only working member of her household, she sought a loan from Tiwa for extra help during the holidays and was provided with the credit counseling and education that would allow her to create a positive payment history and rebuild her credit. Not only did Carrie learn how to take action to positively impact her score, she has started educating her children on the importance of credit scores. Without the loan and counseling from Tiwa, Carrie says she wouldn't be where she is today.

3} Tiwa requires all borrowers to either take a financial education class that Tiwa teaches or one on one counselling with Tiwa.

4} Tiwa collaborates with the Isleta Pueblo Housing Authority (IPHA}, the Pueblos's Tribally Designated Housing Entity, and Pueblo of Isleta departments, such as the Social Services Department, the Library, the Elderly Center, and the Scholarship Office, to market its financial products and development services. Additionally, Tiwa publishes its products and services in the Isleta Pueblo newsletter and posts its publications at public places in Isleta—the post office, the Recreation Center, the Elderly Center, the IPHA Office, and the Governor's Office. Tiwa has a website, *www.tiwalending.org*, where it posts its products and upcoming homeownership financial education workshops. To reach Native Americans in the surrounding communities, it posts announcements at post offices and court houses.

5} Tiwa knows its borrowers and works with them closely to ensure they remain successful borrowers. For example, Tiwa contacts delinquent borrowers by telephone to find out their situation and work with them to resolve the delinquency while the delinquency is still manageable. In a pre-foreclosure situation, Tiwa worked closely with the family and the Pueblo of Isleta to identify a family member who could assume the loan. Most recently, Tiwa is working with the family of a deceased borrower to identify a qualified family member who can assume the loan.

Tribal Support of Tiwa

Isleta Pueblo is a gaming tribe. I tell you this so you will know how gaming has finally brought us some of the community and economic development benefits already enjoyed by the rest of America. Our leaders have always known that a balancing ofthe old and the new is the best way to live in dual worlds. We want our children to continue to talk the Tiwa language and practice the Pueblo traditions while obtaining the education necessary to have what the rest of America has, a safe home and a secure future. It is with this mindset that the Pueblo expends its gaming revenues on economic and community development and has a land policy that allows for the free transfer of tribal trust lands among tribal members and leasehold mortgaging for housing development.

The Pueblo provides capital to Tiwa. By providing capital to Tiwa to assist families become selfsufficient, the Pueblo is able to support housing, community, and economic development on the Pueblo.

By having a land policy that allows for the free transfer of tribal trust lands among tribal members, and mortgaging of land interests, and removing cumbersome processes for leasing and mortgaging inherent in traditional lending, the Pueblo is able to ensure that families have access to financial and homeownership opportunities. As you might know, tribal trust lands are unalienable. They can only be transferred among tribal members. We feel we are unique as Pueblos in our policy of making tribal trust lands freely alienable among tribal members. This policy has allowed tribal members to use their land assignments and residential leases as collateral not only for purposes of building a home but to allow tribal members to obtain tribal land by purchase and to borrow money for business purposes and to build their credit. In our Pueblo, tribal members are able to not only mortgage their residential lease, but also to use their land assignments as collateral for a loan.

Funding Available to Tiwa

Tiwa receives financial support from the U.S. Department of Treasury Native American CDFI Assistance Program (NACA Program}, an annual competitive funding process; the Pueblo of Isleta; and loans from other non-profits. It recently borrowed money from Oweesta, another Native CDFI. Capital also comes from the revenue from the loan portfolios. Like other Native CDFis, Tiwa's primary challenge is lack of funding to meet the lending needs of its community, and consistently seeks funds. For example, Tiwa has a waiting list of 29 tribal members that desire to obtain a home loan. The NACA Funds are available on a competitive basis, and

while the application process is cumbersome and requires grant writing experience, this funding is vital to Tiwa's economic development initiatives.

However, the NACA Funds are insufficient for all Native CDFis competing for the funds. As of 2018, there were 73 certified Native CDFis, with many other working towards becoming certified. Thirty-Eight Native CDFis, including Tiwa, benefited from the $15.3 million in grants in FY 2018. While Tiwa applied for funding in the 2019 fund ing round, funding awards have not yet been posted. In 2019, Wells Fargo provided $100,000 to Tiwa for down payment assistance. Unfortunately, Tiwa was unable to provide this funding to potential borrowers for lack of loan funds to lend and was only able to utilize 20 percent of the funds before the Wells Fargo timeline of one year.

Increased funding for the NACA CDFI Fund, who make such a big economic impact in tribal communities, is vital to economic growth on Indian reservations.

Other Major Challenges

In addition to lack of sufficient funding to lend, Tiwa faces two other major challenges that it has been working to address, with the assistance of the Pueblo.

1. The inability to use federal funds on flood plains.

The inability to use federal funds as down payment assistance on flood plains means that the Isleta Pueblo Housing Authority can't provide down payment assistance to TIWA lenders using federal funds. Both HUD Indian Housing Block Grant (IHBG) and Indian Community Development Block Grant (ICDBG) funds may be used as down payment assistance. Like many other Pueblos, the River Grande river runs through tribal lands. Sometime around 2010, without consent of the Pueblo, FEMA aerially flood mapped Pueblo lands and published a large part of Isleta's residential areas, including areas with HUD-assisted homes, as being in special flood hazard areas (SFHA), also referred to as floodplains. The Federal Flood Disaster Protection Act of 1973[6] (the "Act") prohibits the use of federal funds, including IHBG and ICDBG, on floodplains unless a community or tribe participates in the National Flood Insurance Program (NFIP} and purchases flood insurance.

While other tribes have had their lands flood mapped, it has been with their written consent, and they have been given the option of publishing the flood maps. In response to why Isleta was not given this option, the FEMA response has been that after the Isleta experience, tribes were given the publication option.

Flood insurance is expensive. The inability of low income borrowers to use federal funds as down payment assistance for the rehabilitation of homes on floodplains, many which are in substandard and dilapidated condition, makes it prohibitive to qualify for a loan. Further, the flood mapping in Isleta was done without detailed studies to determine Base Flood Elevations (BFEs), which are necessary to obtain certified elevations for insurance. Obtaining flood insurance will require a borrower to engage a surveyor to conduct detailed studies to determine BFEs.

Even if a tribe mitigates flood risks, the Act prohibits the use of federal funds on homes on floodplains unless a tribe joins the NFIP. A community (including a tribe) that participates in the NFIP is required to adopt flood standards on floodplains as established by the NFIP and enforce these standards. Adopting an approved NFIP flood ordinance is a burdensome and costly process that requires a tribe to hire a certified flood plain manager, develop and enforce flood standards, require certified elevations when building or rehabilitating on floodplains, and maintain tribal records on all new home construction and rehabilitation. Few tribes participate in the NFIP likely due to the administrative, technical, and financial burdens imposed by the NFIP.

States are granted an exemption from the Act's requirement that a community join the NFIP before using federal funds on floodplains.[7] The state exemption applies to federal affordable housing funds provided to states, including HOME funds and CDBG funds, and HUD regulations at 24 CFR 58.6(a)(3)—the HUD environmental regulations, and 24 CFR Part 55.1 (b)(1)—the HUD floodplain management regulations, implement this federal exemption. The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) Reauthorization Bill contains a provision that would give tribes the same exemption already enjoyed by states, and allow tribes to use IHBG and other federal affordable housing funds on floodplains utilizing a tribe's mitigation plan, without requiring a tribe to join the NFIP. This provision will allow tribes and their Tribally Designated Housing Entities to provide down payment assistance funds to low income borrowers for home construction or rehabilitation. We ask for your support of the NAHASDA Reauthor-

[6] 42 U.S.C. 4106(a).
[7] See 42 U.S.C. 4003(a)(3).

ization bill. The Pueblo of Isleta is working on developing a flood assessment and flood mitigation plan.

2. Federal land laws and policies applicable to tribal trust lands.

Federal land laws, found at 25 USC 81 and 25 CFR 162, restrict the ability of tribes to encumber land without approval of the Bureau of Indian Affairs (BIAL and is the biggest challenge to lending on tribal trust lands. Mortgaging land obviously encumbers land. As you may have heard from other tribes, the BIA lease and mortgage approval and recording process is lengthy and cumbersome. Prior to approving a lease, BIA first conducts a title status report (TSR). Then, it reviews and approves a lease already approved by the tribe. Then, before approving a mortgage, if too much time has occurred since approving the lease, it conducts another TSR. Then it reviews and approves the mortgage. Both the lease and mortgage then get routed to the Office of Land, Titles and Records (OLTR) for recording, most of the time in two separate processes. Each step in the process can take months, and the entire process can take more than a year. For example, Tiwa has waited 12 months for a TSR, 12 months for BIA approval of a lease or mortgage, and 24 plus months before receiving the recorded lease and mortgage from BIA.

The time it takes to close a loan on Indian trust lands deters many lenders. To shorten the timelines, Isleta, along with Acoma and Zuni, worked closely with Senator Heinrich to enact HEARTH in 2012. HEARTH, which means Helping Expedite and Advance Responsible Homeownership, is the federal law that allows tribes to enact leasing laws and approve specific types of land leases, including residential leases, without further approval by BIA. While HEARTH is an expensive law for tribes to implement due to a tribe taking on BIA's role of reviewing and enforcing leases and mortgages, preparing surveys, and conducting environmental reviews, and the reason why it took Isleta Pueblo so long to enact, it improves the timeline for closing on loans, making lending more attractive on tribal trust lands.

BIA approved Isleta's leasing law in April 2019. Isleta is in the process of planning the implementation of this law, which will require funding to hire a leasing officer and contract with surveyors and environmental review firms to conduct environmental reviews. Once implemented, Tiwa anticipates that the time for closing on leasehold mortgages will be cut by more than half. The ability to bypass the lengthy BIA review and approval process will allow Tiwa and other lenders to close on mortgages within weeks versus months.

However, HEARTH doesn't address the TSR process which must still be conducted by BIA. Neither the Pueblo nor Tiwa have yet tackled this difficult issue. What we have learned from talking with other tribes is that while some tribes have taken on recording as a function, it is an expensive endeavor and one which requires an expensive database compatible with the BIA titling system. While we have discussed the ability ofthe BIA titling system to become privatized, we realize that this is a discussion that must involve BIA. We ask for your support in helping tribes find a solution to this issue.

Thank you for your time in listening to this testimony.

The photos attached with this prepared statement have been retained in the Committee files.

The CHAIRMAN. Thank you.

Councilman Mount.

STATEMENT OF HON. NATHANIEL "NATE" MOUNT, COUNCIL MEMBER, FT. BELKNAP INDIAN COMMUNITY

Mr. MOUNT. Good afternoon, Mr. Chairman and members of the Committee.

[Greeting in Native language.]

My name is Nathaniel Mount. I am the River Assiniboine District representative on the Ft. Belknap Indian Community Council. I am very proud and pleased to be here today speaking on behalf of my people, the Aaniiih and Nakoda.

My father, Harlan Mount, is here with me, as Senator Tester said. He is our current housing director and is one of our past tribal chairmen. I am very pleased to be with him today.

Historically, our reservation has suffered from 70 to 85 percent unemployment, with a median income of $12,000 or less. Tribal

members typically live with up to three generations in a single home. It is not uncommon to see 13 to 18 people in a single unit.

In fact, our last HUD-built homes were constructed over 25 years ago, in June of 1994. Our tribal housing list has more than 150 families waiting. The waiting time is about three and a half years average.

I myself am an example of this homeownership hopelessness. After returning from law school, I rented a place. After my rental agreement ended, I had to go live with my parents. I had to move in with my parents, because I could not find any housing. There is no housing on our reservation. There is nowhere to rent. There is nowhere to live.

Even for those that want to buy their own home, there is no private housing market. The Ft. Belknap BIA processes only a single digit number of residential leases each year. Between the BIA's cumbersome title status report and the lengthy HUD 184 process, it took one of our tribal members nearly two years to complete their private mortgage. He is the CEO of our tribal corporation and he has submitted written testimony for himself of his personal experience.

The delays are often so long that either borrower or the bank usually just gives up. Simply put, we have nowhere to live.

About ten years ago, our council created an economic development arm, the Island Mountain Development Group. We finally started to see a little bit of economic growth. Through its successful e-commerce company, Island Mountain has diversified and now employs more than 200 tribal members locally. Through Island Mountain, we have reduced our TANF clients by over 50 percent. In the south end of our reservation, we have reduced our unemployment by 50 percent. We have created a steady stream of governmental revenue.

However, without a private housing market, our positive economic growth has hit a substantial barrier. With improvements in our economy, we have created an emerging middle class. However, they are trapped in poor housing.

We struggle with bringing any more employees or bringing home tribal members after they have achieved their higher education. We literally have no place for them to live on the reservation. When we surveyed our Island Mountain employees about what they needed to make their lives better, the number one answer was access to housing.

In August, our tribe passed our HEARTH Act regulations. We were told that the review would occur within the 120-day timeframe. However, since then, our council has been redirected to at least five different DOI employees, because the designated point person of the DOI left three years ago. The Department of the Interior needs a HEARTH Act residential leasing czar, a one-stop, streamlined process. We are concerned because the DOI has a backlog of 26 sets of HEARTH regulations.

We also applaud HUD's efforts to increase their staffing for 184 loan processing. We understand that they currently process between 3,000 and 4,000 loans annually with only four staff. Additional staff and automation should help the backlog of 184 loan guarantees.

At our local BIA office, there is not a single residential leasing staffer. The realty office is short four staff. Offices responsible for facilitating tribal housing markets must be fully staffed.

In addition, the Senate Appropriations Committee recently passed language encouraging the DOI to digitize our land records, specifically Ft. Belknap. We need Indian Affairs to provide oversight and to promote appropriations. Without accurate and digital records, the private mortgage marketplace will remain unavailable for Native Americans that live in their homeland. We need access to TAAMS. We don't have access currently to TAAMS. Our tribal land department has spent over $25,000 on mirror software to try to recreate for ourselves the information available on TAAMS but because the systems do not communicate, our information is spotty, at best.

Also, we propose the creation of a priority deployment mechanism. This will help expedite homeownership and financing. It allows tribes to designate priority housing areas which would then become first in line for records digitization and additional staffing.

We also propose to clarify that which we already believe is the case, that mortgage guarantees are categorically excluded from Federal environmental review. This is something that is already allowed under existing HUD regulations. We provide this language and more in my written testimony.

In conclusion, we are working very hard to push this boulder up the mountain for ourselves, to pull ourselves up by our bootstraps. But most of our housing and land processes are wholly or significantly controlled by the Federal Government.

If Congress is not willing to address the real issue, to fully recognize our governmental sovereignty and restore full and complete tribal jurisdiction within our boundaries, then Congress must provide the resources for the outdated and inefficient system that it leaves us to live and work within.

We commend HUD, the DOI, and BIA for their testimonies and solutions. We are willing to work with and be a pilot for any projects that might help expedite the process.

Thank you for listening to some of the things we believe would help improve access to homeownership on Ft. Belknap. I look forward to the other panelists and to your questions. Thank you.

[The prepared statement of Mr. Mount follows:]

PREPARED STATEMENT OF HON. NATHANIEL "NATE" MOUNT, COUNCIL MEMBER, FT. BELKNAP INDIAN COMMUNITY

Good afternoon, Mr. Chairman and members of the Committee. My name is Nate Mount. I am the River Assiniboine representative on the Fort Belknap Indian Community Council. I am pleased to be here today speaking for our Gros Ventre and Assiniboine Tribe, our Aaniiih and Nakoda people. I want to tell you about the home ownership challenges we face on our vast rural north central Montana reservation, as well as about some of things the Fort Belknap Indian Community has been doing to try to solve these challenges for ourselves.

First, I am going to provide some context. I was born and raised on our Reservation.

My father, Harlan Mount, our Tribal Housing Director, is here with me today. My father served as President of our Tribal Council and has previously come here to Washington to testify in that capacity. I grew up watching him serve our people and am honored to be here with him today, to try to continue to do the same.

Interestingly it was almost exactly 75 years ago that several of our tribal leaders testified in a hearing to a Special Investigating Committee for the House Committee

on Indian Affairs, about many of the same issues we are still testifying to today and Congress has still not fully addressed.

The Ft Belknap Indian Reservation & Our Housing Crisis

Historically, our Reservation has suffered from high unemployment. Indeed, until recently, our Reservation unemployment rate hovered at 70 percent, and about 85 percent on the southern end of our Reservation. Fort Belknap also has little, if any, natural resources to develop such as oil and gas or timber. The Fort Belknap Reservation is very remote and economic development is difficult. We are not near a major population center that would support a significant gaming enterprise. We are 200 miles from the nearest airport.

We do have some modest agricultural and ranching enterprises, such as our buffalo herds, but our geographic isolation and distance from any significant shipping opportunity (such as air or rail) makes any production activities more than challenging. For years, aside from the small number of Tribal and federal jobs available working in government services, our people have relied on seasonal firefighting work or day-laborer wages at area ranches. We have many members who still practice subsistence lifestyles. The median income is less than $12,000 per year according to recent statistics.

The Fort Belknap Indian Community has more than 8,000 enrolled members, a little less than half of whom live on or near the Fort Belknap Reservation. For those of us who live on-Reservation, we typically live in multi-generational housing, with two and three generations living in two- or threebedroom homes. It is common to have 13–18 people resident in a single home. This means our children often sleep on floors, in places they should not be. Our housing list is presently more than 150 families-long. According to our tribal housing director, the average wait-time on our housing waitlist is 3.4 years. For two-bedroom units, the wait is over four years. The housing units we do have are generally dilapidated. There has been little to no new housing construction for twenty-five years. There is no private housing market at Fort Belknap. The Fort Belknap BIA agency processes only a single-digit number of residential leases each year and even when a lease is issued, a home may not be built there for a wide variety of reasons such as lack of infrastructure, access, surveys, certified title and simultaneously given the near-total lack of any private conventional mortgage options available on-Reservation, despite the ostensible carrot of the HUD Section 184 loan guaranty program. Simply put, we have nowhere to live.

I myself am an example of the hopelessness our people feel regarding housing. When I returned to the Reservation following law school, I added my name to the housing waitlist. But after years of no movement, and my knowledge that our Tribes had already exceeded the ten-percent threshold of housing participants who can be at 80–100 percent of median income, I abandoned my effort and took my name off our housing list.

History of the Federally-Funded Housing Failures

How did we get to this crisis point? We have long suffered from inattention. In 1970, a handful of low-rent units were built, followed by a few additional units per year until 1995. The housing units that were built in that timeframe suffer from poor insulation and other structural deficiencies and have been susceptible to significant mold problems. The last homes built with HUD funding were completed 25 years ago, in June 1994.

Past Failures with Using Tax Credits to Build Housing

In 2000, Fort Belknap Housing Authority was dissolved and the Fort Belknap Indian Community Council became the Board of Directors. Since then, the Council has become directly responsible for housing.

Since then, we have had three tax credit home projects. These included relocating about a dozen modular airbase homes from North Dakota. These homes were attended by structural, financial and political issues and sadly haven never been habitable.

In the early 2000s, Housing had a down payment assistance program where eligible home buyers applied for and could receive $25,000. There were a number of Tribal members selling their homes, and the buyers utilized this. In 2004, the assistance was used to purchase homes off of our Reservation.

In 2005, the council applied for and was approved for a tax credit project to rehab 49 Housing units. The rehab started in March of 2006. But our Community struggled to understand the federal tax credit laws, resulting in a number of renters being ineligible, causing a few homeless members.

In 2006, the Council took action to apply for approximately 25 tax credit modular homes. The buildercontractor was a company from New Mexico, while the units

were built somewhere around Denver. This project had a number of structural concerns that had to be corrected right after delivery and setup. This caused a number of penalties that included the developer's fee of well over a million dollars, plus additional penalties.

Unsuccessful BIA Residential Leasing Program

Options through the BIA are little better. At the Agency level, when the local BIA employees receive a residential leasing application package, they work through a checklist of items including verifying a correct tribal resolution, legal description, survey (if applicable), encumbrances and/or leases, contact with any existing lessor that has a land contract/lease for relinquishment of a particular site on trust land for residential purposes, and other items in the *nine-page local BIA checklist.*

At Fort Belknap, the BIA processes only a single-digit number of residential leases per year. Even when they obtain BIA residential leases, many Tribal members abandon efforts to place a home on that land due to their inability to secure financing.

It can easily take two years for a mortgage leasehold to be completed and finalized, from initial request to the tribal council and through the entire process with a final recording at the BIA Land, Titles and Records Office ("LTRO"). The size of land, number of encumbrances (such as rights of way and service agreements), multiple uses of land (such as part of a range unit, agricultural lease, etc.), and other issues increase the review time to certify a particular tract of trust land is available for residential leasing purposes. This unreasonably long time causes many Tribal members (and their mortgage lenders) to abandon the process of seeking a mortgage leasehold and a Section 184 mortgage guaranty.

Despite these desperate attempts by our Tribal Council to bring housing solutions to our people, we have been unable to do so, yet. We lack the most basic dignity of home ownership and safe, secure shelter for our families.

The Improving Ft. Belknap Economy—Island Mountain Development Group

But in the last ten years, our Tribal economic arm, Island Mountain Development Group, has brought an incredible ray of hope to our Community, creating, managing and operating e-commerce businesses, realty and agriculture opportunities, a technology company, a construction company and is now moving into government contracting. Island Mountain now has more than 200 employees, nearly all of whom are Tribal members and most of whom work in our state-of-the-art customer contact center on the southern end of our Reservation. Our Tribal citizens have grown up in largely subsistence households, meaning they hunted or grew their own food. Until two years ago, the only store on our entire Reservation was a gas station convenience store, with no fresh food. The closest significant grocery store was 80 miles away. Many tribal members do not have vehicles. There is very limited public transportation (one bus per day going to the nearest grocery store). The Tribal government is the largest employer, followed by the federal government, and those jobs are 30 miles away from the poorest end of the Reservation, where Island Mountain now operates.

Island Mountain has reduced the unemployment rate on our Reservation by more than 50 percent, created a steady stream of governmental revenue the Council has been able to use an emergency back-stop for government programs-such as summer service and funding our anti-meth initiative. Additionally, is Island Mountain's support in standing up a new Tribal store and healthy food cooperative with a orchard, greenhouses, and a professional kitchen where Tribal members can preserve foods they grow or purchase and also learn diabetic cooking techniques.

Emerging Middle Class

For purposes of this hearing, I am sharing this background about Island Mountain because through their innovation, we have an emerging middle class at Fort Belknap. Island Mountain employees have a base salary $7/hour higher than the average Montana base salary.

The salaries and wages made possible by Island Mountain have made a world of positive difference in the lives of these extended families. Our estimates are that each one Island Mountain job at the call center supports nine Tribal citizens. That means well more than 1,000 people that are not looking to the Tribal and federal governments for assistance-they are self-sufficient. They are financially literate. They understand credit. They have been able to purchase automobiles and clothe and feed their families, as well as assist grandmothers with utility bills and support nieces and nephews and the like.

But when we survey our Island Mountain employees about what they need to make their lives better, the number one answer is access to housing, access to home ownership opportunities. While they are a tremendous example of resilience, of what

we can achieve for ourselves when we pull ourselves up by our bootstraps, this most basic dignity of having a home eludes them.

New Positive Steps Tribe Is Taking to Create Housing

The Fort Belknap Indian Community Council understands that housing is at the center of community well-being, and is utilizing all available tools to solve our housing crisis for ourselves.

Tribal Residential Leasing Act Under HEARTH Act. On August 5, 2019, our Council enacted the Fort Belknap Indian Community Residential Leasing Act, seeking to take advantage of the 2012 Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act amendments to the Indian Long-Term Leasing Act. As you know, the HEARTH Act provides authority for Indian tribes to lease tribal trust lands directly pursuant to tribal law, without further Secretarial approval. The HEARTH Act is a valuable tool that: (1) empowers tribes to realize their potential for economic growth and job creation on tribal lands, (2) increases community development, and (3) strengthen tribal self-determination.

Our Residential Leasing Act provides our Tribal entities another tool with which to partner effectively and increase efficiencies in residential leasing by removing impediments and delays attendant to the current BIA leasing process. Our Residential Leasing Act would move critical functions from the BIA to the Land Department and other Tribal entities as contemplated in the HEARTH Act.

Our Council chose to narrowly focus on only residential leasing in our HEARTH regulations in order to try to expedite the Department of the Interior's review and approval. We have also undertaken significant intra-Tribal implementation efforts in the two months since our passage of our Residential Leasing Act, working with all our Tribal departments-Tribal Land, Environmental, Housing, Planning, THPO, utilities, etc.-and working with the BIA Superintendent, to ensure that we are ready to begin new home construction next spring, when the narrow window of construction that life on the Montana Hi-Line allows, opens.The Residential Leasing Act is a tool that could be used to support expedited private residential development, which Island Mountain is prepared to lead for us.

Purchase of Home Building Business to Subsidize on Reservation Builds. Island Mountain recently acquired one of the premiere custom home-building businesses in Montana and is getting ready to start a 59-lot subdivision construction project in Billings. This will help them create cost and materials efficiencies for on-Reservation housing construction as well. Additionally, we are assessing Community needs to identify the types of housing needed—single, multiple, elder, supportive, etc., and considering infrastructure needs like water, wastewater, roads, broadband, schools and the overall community.

Creation of Own Mortgage Lender. Island Mountain has brought on a conventional mortgage specialist, with 20 years of industry experience, to help stand up Tribal mortgage products that are affordable for Tribal members and positioned to be sold in the secondary mortgage market to the likes of Fannie and Freddie. She is also working to provide education modules for Tribal borrowers and procedures for regulatory enforcement of Tribal mortgages that could benefit both our internal Tribal mortgages and encourage third-party conventional lenders to work with Tribal members in a manner they are presently disinclined to do. In short, we are actively working on all aspects of planning for housing development, save the biggest one-our residential leasing authority-until we have DOI approval.

Still Waiting for DOI Approval Under HEARTH Act. Fort Belknap electronically submitted our Residential Leasing Act to the Department for review on September 10, 2019 and in-person with paper copies to Deputy Director Jim James in Washington, D.C., on September 11, 2019. That meeting was led by my colleague, Fort Belknap Councilman and Lands Committee Chairman Curtis Horn. At that meeting, Councilman Horn was informed the Department's review would include a first-level review by the Region and a secondary review by the Solicitor's office, and that the Department thought both levels of review could be accomplished quickly and well within the 120-day timeframe within which the Department must approve or disapprove the Tribe's submission (per 25 U.S.C. § 415(h)(4)).

Councilman Horn shared at that meeting, and in later meetings with Senators Daines and Tester, the grim picture of the housing crisis at Fort Belknap despite an emerging middle class at Fort Belknap flowing from the Tribes' economic development efforts and enthusiastic Tribal member interest in home ownership. While we were encouraged by our advocacy efforts here in Washington in September, in the month since, we have seen little progress.

Instead, our Residential Leasing Act has seemingly drifted back and forth within the Department. The Department of the Interior website lists as the HEARTH lead a person who has not worked at the Bureau for nearly three years. Our counsel has

been directed or redirected to at least five different DOI employees in seeking review of our narrowly focused Residential Leasing Act.

Our submission should be capable of quick review. First, Fort Belknap's submission is narrowly focused on residential leasing. Second, Fort Belknap's draft is modeled on other tribes' residential leasing regulations recently approved by the Department. Third, as we understand Fort Belknap communicated to Mr. James and others, the Tribe is already actively implementing its efforts, including in holding three intra-Tribal and BIA-Fort Belknap all-day working sessions to ensure that they are all ready to begin implementing the Residential Leasing Act in early 2020. Indeed, my co-panelist, Ms. Kunesh, has participated in our implementation sessions and has been a tremendous source of help and support to us as we try to solve our housing crisis. We are grateful to her and her Federal Reserve colleagues.

Additionally, the Fort Belknap has been working on parallel paths with HUD on Section 184 loan guarantee reforms, our own Tribal mortgage code, and securing third-party partners for the delivery of mortgage options for Tribal members.

Quite literally what is holding us up from solving these problems for ourselves is our wait for DOI's permission to allow us to help ourselves.

We are concerned because we understand the Department has a current backlog of 26 sets of HEARTH regulations from tribes around the country and is averaging just two HEARTH approvals per year. We see no reason it should take the Department four months, or longer, to review regulations like ours which are narrowly focused, modeled after recent approvals, and include just six pages of substantive provisions (most of our Residential Leasing Act is definitions).

To our knowledge, we are the first Great Plains/Rocky Mountain tribal government to adopt HEARTH regulations and one of few in rural areas looking to utilize it. We hope that our efforts will provide an example from which other tribes can learn in the future. To get there, we recommend the Department's allocation of additional Solicitor resources to HEARTH reviews, as well as the Department's identification of a "HEARTH Czar," who is a one-stop resource to help tribes navigate the DOI HEARTH-approval process.

In addition to securing our Residential Leasing Act approval to restore our inherent Tribal authority over our own lands and allow us some escape from Federal bureaucratic entanglements, we believe improvements in the accessibility and reliability of BIA land records are essential for us to succeed in establishing a private housing market at Fort Belknap.

Digitization of Land Documents Needed

The Senate Appropriations Committee has recently encouraged the Department's commitment of appropriate Trust-Real Estate resources to assist us in HEARTH implementation:

> "The Committee also recognizes increased digitization of Indian land records would increase efficiency within Trust-Real Estate Services. Within the amounts provided, the Committee encourages Trust-Real Estate Services to implement additional digitization of Indian land records to promote Tribal economic development opportunities in Indian Country, including the Fort Belknap Indian Community." Report No. 116–123 to accompany S. 2580 at p. 57.

More accurate and more accessible land records are the lynch-pin to housing financing. Creation and maintenance of a digital system for maps and records (e.g., property interest, encumbrance and leasehold mortgage) is essential for efficiency and third-party lenders. We respectfully request SCIA Oversight of the implementation of this digitization provision.

Tribes Need Access to TAAMS

We would like to get our Reservation land records much closer to what conventional mortgage lenders observe outside reservations. Presently, the BIA is also responsible for all relevant LTRO functions unless tribal employees have been subject of a background check for clearance, have been trained in the Trust Asset and Accounting Management System ("TAAMS") for federal records on trust lands for access, and are covered by a cooperative agreement between the Tribes and the BIA for various levels of access to the records system. We do not have access to BIA's records or the TAAMs systems.

Our Tribal Land Department spent $25,000 on mirror software so we could try to recreate for ourselves the information available in the TAAMs system. But because the systems don't talk to each other, our Tribal Land has only incomplete information. And what they do have is often inaccurate, with land descriptions not matching survey records and the like. But a certified Title Status Report is a re-

quirement for a Section 184 loan guaranty and our Tribal members have been experiencing waits of a year or more to get their TSRs.

Nearly Two-Year Wait for HUD 184 Loan Guaranties

Island Mountain CEO Terry Brockie, a Gros Ventre Tribal member, is a great example of how far afield our reality is from the norm. He is a very credit-worthy person, serving as our CEO and before that having held other professional jobs and having served as county superintendent of schools. As detailed in his written testimony submitted to the Committee, it took him 23 months, nearly two full years, to secure a 184 loan guaranty. Compare that to the standard 3–12-week range for off-reservation commercial mortgages, or frankly the one month average for some lenders. At that rate, Mr. Brockie waited 23 times longer than private, non-HUD 184, homeowners. Quite simply, mortgage lenders cannot hold underwriting open for years waiting for all the Section 184 boxes to be checked.

Recommended Solution: "Priority Deployment Mechanism"

We agree with HUD that it is essential to update the loan guarantee program because it remains the same since it was established in 1992. We also applaud HUD's efforts to increasing their staffing for 184 loan processing. We understand that they currently process between 3,000 to 4,000 loans per year with only four staff. And keep in mind that, when 184 issues go back to the BIA at Fort Belknap, there is not a single dedicated residential leasing person, and the Fort Belknap Agency is presently short four realty staff. At a minimum, the Federal agencies responsible for administering these programs should be fully staffed.

We also propose additional reforms to the 184 process that we believe would expedite home ownership. We propose to borrow extensively from HEARTH and Opportunity Zone language recently enacted by Congress to add a new subsection allowing tribes to designate priority areas for housing development. Areas so designated would be first in line for records digitization and additional staffing support. Essentially, this would allow tribes to fast-track mortgage guarantees for housing priority areas on reservations. We propose that tribes make the designations, notify the HUD Secretary, and thereafter the Bureau would have 60 days to get the records in order and 90 days to generate certified TSRs. We also propose to clarify that all mortgage guarantee reviews are categorical exclusions from Federal environmental review so that applicants do not have to do irrelevant things like obtain a certification from the Bureau that their home in north central Montana does not impact a coastal zone (presently an EPA requirement for 184 guaranties). The HUD regulations are a confusing patchwork of cross-references to other regulatory sections and acts, and while we think it is already accurate that mortgage guaranties are categorical exclusions, it would be helpful to applicants to just state that expressly.

Our proposed addition to 12 U.S.C.A. § 1715z-13a would be a new subsection (i)(8):

Priority Deployment Mechanism

There is established in this subsection the Priority Deployment Mechanism for the Indian Housing Loan Guarantee Fund for the purpose of encouraging more rapid delivery of loan guarantees under this Section. The Priority Deployment Mechanism includes three principal components: designation by tribal governments, increased levels of supporting services from the Bureau of Indian Affairs and categorical exclusion from federal environmental reviews.

A. Designation. For purposes of this subsection (8), a tract of land in an Indian area may be designated by a tribe as eligible for the Priority Deployment Mechanism if the tribe nominates the tract for designation as qualified for the Priority Deployment Mechanism and notifies the Secretary in writing of such nomination.

B. Bureau of Indian Affairs Assistance. Upon designation and notification as set forth in subsection 8(a) herein, the applicable Bureau of Indian Affairs Land Titles and Records Office shall digitize all land records associated with the designated tract within 60 days of notice of the designation. The Bureau of Indian Affairs shall deploy personnel as needed to review land records associated with any tract designated as qualified for the Priority Deployment Mechanism in order to facilitate delivery of certified Title Status Reports to the Department in connection with any loan guarantee application under this Section within 90 days of the date of the borrower's application.

C. Categorical Exclusion from Additional Environmental Reviews. Because tribal governments will make designations under subsection 8(A) pursuant to any applicable tribal environmental laws and are making such designations to prioritize land for Indian area housing developments, any tract designated

pursuant to subsection 8(a) as qualified for the Priority Deployment Mechanism shall be categorically excluded from any additional federal environmental review requirements, including but not limited to as provided in 24 C.F.R. § 1005.105(e), 24 C.F.R. 1000.20, 24 C.F.R. Part 50, and 24 C.F.R. Part 58 because priority deployment of loan guarantees under this Section do not alter physical conditions in a manner or to an extent that would require review under NEPA or other laws and authorities applicable to other Department actions.

Conclusion

Thank you for listening to our long list of things we believe would help improve access to home ownership for Fort Belknap Tribal members. We are working very hard to push this boulder up the mountain for ourselves. What we really want is for the Federal government to get out of the way- to put these decisions and processes about our lands back in our inherent Tribal authority. We believe this is consistent with self-determination policy and the only way our people will be able to experience the dignity of secure, affordable, dignified housing on our Reservation.

The CHAIRMAN. Thank you.

Director LaCounte.

STATEMENT OF DARRYL LACOUNTE, DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. LACOUNTE. Good afternoon, Chairman Hoeven, Vice Chairman Udall, and members of the Committee.

My name is Darryl LaCounte. I am the Director of the Bureau of Indian Affairs at the Department of the Interior. Thank you for the opportunity to provide testimony on behalf of the department regarding homeownership in Indian Country.

As a part of a joint effort with our Federal partners, the BIA Division of Real Estate Services helps tribal members purchase homes. As a matter of fact, it is the top priority within our Real Estate Services Program, to process the land sales, the leases and the mortgages associated with housing for American Indian people to afford them the opportunity to achieve the security and satisfaction that comes with homeownership.

Tribes oftentimes do not agree with each other on priorities based upon their local communities and economies, but I am quite certain that all tribal leaders would agree there is no higher priority than housing in Indian Country for their people.

The department has taken very important steps to further homeownership in Indian Country. On July 15th, 2019, the department completed the Mortgage Handbook. I personally signed the Indian Affairs policy, 52 Indian Affairs Manual 4: Processing Mortgages on Trust Properties. This handbook clearly documents the procedures required to be successful in our mortgaging program within our Real Estate Services programs. It is the primary resource for BIA Division of Realty staff, and part of our effort to standardize and streamline the mortgage process.

We have also created the Contact Guide for Mortgage Lending in Indian Country. The Contact Guide was prepared for the specific purpose of supporting the lending process in Indian Country.

Before the application process begins, lending officers who take applications from prospective borrowers should use this guide to ensure the appropriate office of the BIA is involved and the correct processing codes are included on all mortgaging applications in all phases of the process. Using this guide will expedite the lending process in Indian Country.

In February of 2018, the BIA Office of Trust Services began a two-year initiative to develop a BIA Enterprise Land and Resource Data Warehouse to expand data sharing capabilities utilizing existing business data repositories and analytical tools. The BIA Enterprise Land and Resource Data Warehouse will serve as a critical component of a DOI-wide Enterprise Data Warehouse. The BIA initiative will consolidate all data from BIA's various business subsystems within the Trust Asset and Accounting Management System, known as TAAMS, and those other standalone data tools, including other systems that assist our real estate programs in managing trust and restricted lands for the benefit of tribes and individual Indian owners.

This initiative will allow BIA to integrate data from the TAAMS system and other data sources into operational data views that can easily be accessed as a single point for strategic and operational reporting and analytical needs. The data warehouse will support land management processes to best manage and maintain thorough standardized core business processes and data, while enabling line of business details to be captured. It will provide other advantages by decreasing operational costs, supporting the modernization initiatives based on reusing and minimizing development activities, and providing management with tools to effectively direct land and resource management activities.

Additionally, by integrating organizational data that is fragmented in offline systems, the data warehouse and the use of these dashboards will reduce the impacts on transactional systems like TAAMS, and its subsystems, that were not designed or are conducive to handling large volumes of complex queries and unique reports. The data mining capabilities also allow access to large volumes of historical data that reside in disparate systems and will assist in responding to compliance questions, legislation, and other data needs.

The solution requires expanded database management, development, and software delivery services, as well as training, interfaces, and continued updates of security measures to remain secure and in compliance with government IT standards.

BIA recognizes that the business processes and rules, information requirements, and supporting data for each of the above major land and natural resource management phases, have significant similarities that are applicable to natural resource management for both Indian and Federal land. That is, there are significant opportunities for process and data standardization within the accompanying component re-use.

In conclusion, the BIA is committed to providing a state-of-the-art data solution for managing the mortgages and increasing homeownership on Indian trust lands and developing tools to enhance these opportunities. BIA continues to coordinate with HUD so that they may access pertinent information, such as title status reports through a data portal, to assist in further advancing homeownership in Indian Country.

Mr. Chairman, thank you for the opportunity to testify today. I am glad to answer any questions from the Committee.

[The prepared statement of Mr. LaCounte follows:]

PREPARED STATEMENT OF DARRYL LACOUNTE, DIRECTOR, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon Chairman Hoeven, Vice-Chairman Udall, and Members of the Committee. My name is Darryl LaCounte and I am the Director of the Bureau of Indian Affairs (BIA) at the Department of the Interior (Department).

Thank you for the opportunity to provide testimony on behalf of the Department regarding homeownership in Indian Country. As a part of a joint effort with our federal partners, the BIA Division of Real Estate Services helps tribal members purchase homes. The Assistant Secretary—Indian Affairs has made it a top priority to advance Indian Country economic development efforts and help individual Indians achieve the security and satisfaction that comes with homeownership.

Resources Furthering Homeownership

Mortgage Handbook

On July 15, 2019, the Department completed the Mortgage Handbook. This handbook documents the procedures required to implement the Indian Affairs policy, 52 IAM 4: Processing Mortgages of Trust Properties. It is a primary resource for BIA Division of Realty staff, and our effort to standardize and streamline the mortgage process.

Contact Guide

We have also created the Contact Guide for Mortgage Lending in Indian Country (Contact Guide). The Contact Guide was prepared for the specific purpose of supporting the lending process in Indian Country. Mortgage production proceeds in four phases: origination, processing, underwriting and closing. However, before the application process begins, lending officers taking applications from prospective borrowers should use this guide to ensure the appropriate office of the BIA is involved and the correct processing codes are included on all mortgage applications and in all phases of the process. Using this guide will expedite the lending process in Indian Country.

External Portal

In February 2018, the BIA Office of Trust Services began a two-year initiative to develop a BIA Enterprise Land and Resource Data Warehouse to expand data sharing capabilities utilizing existing business data repositories and analytical tools. The BIA Enterprise Land and Resource Data Warehouse will serve as a critical component of a DOI-wide Enterprise Data Warehouse. The BIA initiative will consolidate all data from BIA's various business subsystems within the Trust Asset and Accounting Management System (TAAMS) and those that are standalone data tools (Geographic Information System, National Irrigation Information Management System, National Indian Oil and Gas Evaluation Management System, Tracking Accountability and Productivity System, Probate Case Management and Tracking System, Realty Tracker, and Cadastral Automated Reservation System). This initiative will allow BIA to integrate data from the TAAMS system and other data sources into operational data views that can be easily accessed as a single point for strategic and operational reporting and analytical needs.

The data warehouse will support land management processes to best manage and maintain thorough standardized core business processes and data while enabling line of business details to be captured. It will provide other advantages by decreasing operational costs, supporting the modernization initiative based on reusing and minimizing development activities, and providing management with the tools to effectively direct land and resource management activities.

Additionally, by integrating organizational data that is fragmented in offline systems, the data warehouse and the use of these dashboards will reduce the impacts on transactional systems like TAAMS, and its subsystems, that were not designed or conducive to handling large volumes of complex queries and unique reports. The data mining capabilities also allows access to large volumes of historical data that live in disparate systems and will assist in responding to compliance questions, legislation, and other data needs.

The major phases and related data that support land and natural resource management are:

- Ownership Management (managing ownership information to specific parcels of land);
- Inventory Management (inventory of land holdings and encumbrances);
- Use Authorization Management (managing permitting, leasing, rights of way activities);

- Planning (planning activities to maintain and conserve the natural resource);
- Compliance (lease compliance activities);
- Monitoring and Auditing (availability and accessibility of natural resources); and
- Custodial Management (maintenance of the land and natural resources).

The solution requires expanded database management, development, and software delivery services, as well as training, interfaces, and continued updates of security measures to remain secure and in compliance with government IT standards. BIA recognizes that the business processes and rules, information requirements, and supporting data, for each of the above major land and natural resource management phases, have significant similarities that are applicable to natural resource management for both Indian and Federal land. That is, there are significant opportunities for process and data standardization with accompanying component re-use.

Conclusion

Mr. Chairman, the BIA is committed to providing a state-of-the art data solution for managing the mortgages and home ownership on Indian trust lands and developing tools to enhance these opportunities. At the direction of the Secretary, BIA continues to coordinate with HUD to develop a HUD Dashboard to access pertinent information, such as Title Status Reports, to advance homeownership in Indian Country.

Thank you for the opportunity to testify today. I am glad to answer any questions from the Committee.

The CHAIRMAN. Thank you.

Director Kunesh.

STATEMENT OF PATRICE H. KUNESH, DIRECTOR, CENTER FOR INDIAN COUNTRY DEVELOPMENT; ASSISTANT VICE PRESIDENT, FEDERAL RESERVE BANK OF MINNEAPOLIS

Ms. KUNESH. Chairman Hoeven, Vice Chairman Udall and members of the Committee, thank you for the opportunity to testify today on the crisis of lending and homeownership in Indian Country.

My name is Patrice Kunesh. I am the Director of the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis. The views I express here today are not necessarily those of the Minneapolis Fed or the Federal Reserve system.

The Center for Indian Country Development is the Federal Reserve system's national research center focused on Native Nations' economic issues. We are based at the Minneapolis Fed, whose region is home to more 45 tribal Nations and also to you, Chairman Hoeven, Senators Tester, Daines, and Smith.

Becoming a homeowner has long been considered the path to creating social and economic health and wealth for many Americans. However, Native Americans have largely been denied this opportunity, especially those living on reservation trust lands. In my short time here today, I would like to share a handful of key messages to guide you in your policymaking.

First, tribes have sovereign authority over their lands but they do not have control over the complex Federal processes to put those lands to good use. As we move forward to improve access to housing and affordable lending, we need to fix a collection of byzantine processes that create untenable impediments. For example, the 184 program from HUD is a very popular, much needed program. But in recent years, 93 percent of those loans have bypassed reservations, mostly because of administrative burdens.

Second, there is the human element. Those impediments have deprived real people and real families, Native people and Native families, much like my own on the Standing Rock Reservation, from building personal assets. Those processes also have discouraged investment to create prosperity among our Native communities.

With that context in mind, let me offer a few recommendations. For one, there must be an expansion of access to capital and credit in Indian Country. As conventional lenders have retreated from Indian Country, Native community development financial institutions, or Native CDFIs, have become critical sources of capital for home loans. They intimately know the lending needs and capacity of their constituents. Tapping into their strengths and their network and supporting them with more funds could deliver all of the Federal key programs, such as the HUD 184 Loan Guarantee, USDA Rural Development 502 and the Veterans Affairs Native American Direct Loan.

For another, I recommend using innovative loan products and delivery systems. For example, at USDA, it is expanding access to public capital by providing Native CDFIs in South Dakota relending authority to deploy 502 home loans on trust lands. That could mean access to millions of dollars of housing investment in Indian Country, and should be expanded nationwide.

But we need even more innovation to support this persistently underserved population, such as pooling leasehold mortgages and access to a secondary market. Recent Center for Indian Country Development research found that Native borrowers for homes on reservations are significantly likely to have higher-priced mortgages, with rates nearly two percentage points higher than for non-Native borrowers outside the reservation. In 2016, that meant that the average Native American borrower would pay $107,000 in more interest over a 30-year mortgage. This, I believe, is a matter worthy of your concern and examination.

Chairman Hoeven, members of the Committee, the Native population is growing at a rate far higher than the national rate. So is real per capita income, although it remains stubbornly low. There is a scarcity of housing supply on reservations and an enormous unmet need.

That is why seeking solutions to Native American housing and lending crises can deliver a substantial return on investment to our economy. Even more important are the powerful, life-changing impacts that homeownership could bring to families, along with the needed hope homeownership can instill in our Native communities.

Thank you so much for this opportunity. I look forward to your questions.

[The prepared statement of Ms. Kunesh follows:]

PREPARED STATEMENT OF PATRICE H. KUNESH, DIRECTOR, CENTER FOR INDIAN COUNTRY DEVELOPMENT; ASSISTANT VICE PRESIDENT, FEDERAL RESERVE BANK OF MINNEAPOLIS

Introduction

Chairman Hoeven, Vice Chairman Udall, and members of the Committee:

Native nations' economies and populations are among the fastest growing in the United States, yet the gap in homeownership rates between tribal lands and the rest of the country remains unacceptably wide. Despite Native households' steadily

increasing credit scores and strong preference for homeownership, a smaller share of Native households own homes today than in 2000, and homeownership rates among American Indians are lower than the nation as a whole. [1]

Some of this gap is due to limited resources, but restricted access to credit and capital is stifling the development of Indian Country housing stock. Administrative burdens, lack of access to land title records and data, and inter-agency inefficiencies have reduced conventional lender participation in trust land lending. In addition, federal programs geared toward mortgage lending for Native people largely bypass reservations. Even when Native borrowers are able to secure a home loan on the reservation, their mortgages are higher priced: nearly 2 percentage points higher than for non-Native borrowers outside the reservation. [2]

This testimony presents an analysis of these trends and proposes reasons for the incongruity between homeownership rates and signs of other economic growth in Indian Country. It also shares examples of tribal government institutions that are making homeownership work on trust lands and of federal agencies pursuing innovative housing finance efforts to meet the dire need for housing in Indian Country.

The Center for Indian Country Development (CICD) at the Federal Reserve Bank of Minneapolis uses its expertise in economic research and community engagement to better understand housing challenges and find solutions. [3] The CICD is the national economic research initiative within the Federal Reserve System. Our research reveals a complex web of historical and legal forces that make it unreasonably difficult to use much of tribal lands for the benefit of Native people for mortgage lending and other economic development. [4]

Native Americans and Housing

Today, 573 federally recognized Indian tribes [5] control about 60 million acres of land in the United States. The vast majority of these tribal lands are held in trust [6] by the federal government and are encompassed within American Indian reservations. Social and cultural connections to Indian Country remain strong among the 5.2 million American Indian and Alaska Native (AIAN) peoples. [7] This is a rapidly growing population. [8] About 60 percent of Native people live on or near reservations (also referred to as *tribal areas* in the U.S. Census). [9] Options for housing in tribal areas are extremely limited, and households confront a very different market than the one found in non-tribal areas.

There is a drastic need to increase both the supply and quality of housing in tribal areas. In 2017, HUD estimated that 68,000 housing units were needed to ease overcrowding and replace substandard homes in tribal communities, and the units needed today likely have increased. We believe this number underestimates the severity of overcrowding on reservations. About 16 percent of reservation households are overcrowded, [10] compared to 2.2 percent of the general population. [11] All told, severe overcrowding, poor quality housing stock, and a rapidly growing population mean the real need for additional housing units is likely substantially higher than the 2017 estimate. The precise level of need is difficult to gauge because some tribal-level data generally is unavailable. [12] The social consequences of substandard and inadequate housing are distressing. They include chronic disease and other health problems, as well as harmful effects on childhood development. [13]

Additional housing units are also required to meet the demands for homeownership in Indian Country. About 75 percent of Native households in tribal areas report a strong desire to own their home, [14] confirmed by survey findings from recent community needs assessments. [15]

Tackling homeownership on trust land also would address fundamental issues that affect the entire spectrum of economic development in Indian Country and unlock potential for community benefits though investments on reservation lands. For example, creating private homeownership opportunities in Indian Country relieves pressure on traditional housing programs that largely administer a stock of subsidized rental properties. Quality, affordable rental housing and repairs to existing owner-occupied and rental properties are necessary but not sufficient for supporting continued economic growth in Indian Country.

Tribes have sovereign authority over their lands, but they do not have control over the federal processes to put these lands to good and productive use. The Bureau of Indian Affairs at the U.S. Department of the Interior (BIA) oversees the process for approving loans on trust lands. The path to homeownership on trust land requires navigating this complex maze of intraand inter-agency steps and touch points. Fundamental reforms are needed to standardize the mortgage review process and make it efficient and reliable for lenders and borrowers alike. [16] Overcoming decades of housing deficits and meeting the pressing demands for homeownership across Indian Country require targeted investments across an array of new

housing construction and housing preservation. The key now is to align processes and policies, backed by a firm commitment to accountability and transparency.

Enduring Benefits of Investing in Native Communities

A growing body of evidence shows the long term benefits of investing in Native communities and the positive economic impact on tribal institutions.[17] The need is great and Indian Country is poised to take advantage of these investments.

As a whole, the Native population is growing much faster than the national population, increasing by almost 27 percent between 2000 and 2010, compared to an overall U.S. rate of about 10 percent. While AIAN household income is still far behind other demographic groups, Native people overall have realized a steady increase in real per capita income.[18] Social and cultural connections to Indian Country remain strong, with a high percentage of tribal citizens, about two thirds, living on or near reservations.

Indian Country is a distinctively important component of the national economy. Collectively, tribes are the 13th largest employer in the United States. Tribal government gaming and other reservation businesses employ more than 700,000 people and offer benefits and diverse occupational opportunities. Tribal revenue delivers billions of dollars into local economies and contribute significantly to their tax base.

Evidence suggests that tribal revenues positively influence reservation households. For example, modest increases in income to tribal citizens tend to dramatically improve measures of educational attainment, arrest rates, and civic engagement.[19] Other benefits from enhanced income stabilization include decreased rates of smoking, alcohol consumption, and obesity.

Positively changing household incomes also improves economic opportunities in the long run. The CICD's recent assessment of Indian Country data from the Opportunity Atlas finds that Native children growing up in tribal statistical areas show greater upward mobility for all parental income levels.[20] This suggests that investing in reservation communities equates to investments in our children, and offers the hope of healthy and productive lives.[21]

To sustain continued growth and address intergenerational wealth gaps, these investments must include housing. Stable, safe, and affordable homes not only support a healthier and more educated workforce, but they allow community members to take and keep jobs, raise families, and build a vibrant economy where businesses flourish and children thrive.

Federal Programs with Native American Mortgage Products

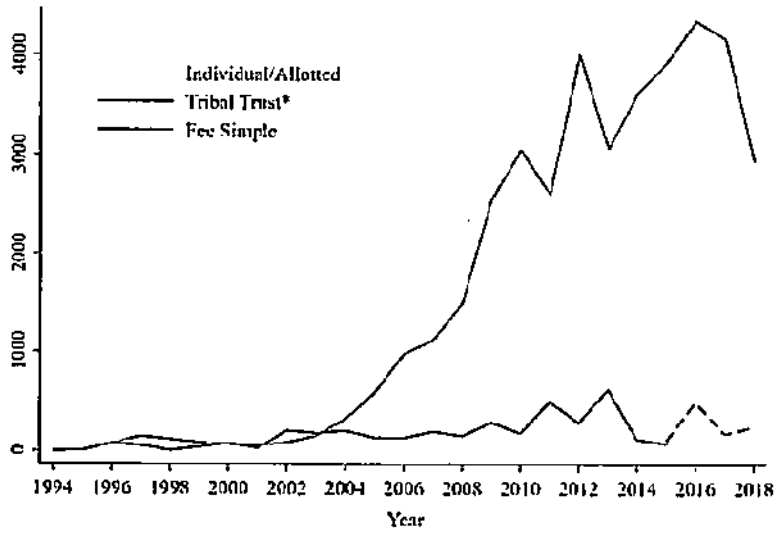
After centuries of disastrous federal policies that impoverished and decimated Native communities, Congress in the 1960s began to enact legislation affirming tribal rights, strengthening tribal autonomy, and establishing resources to build reservation economies. The Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93–638) authorized "Indian Tribes and Tribal Organizations to contract for the administration and operation of certain Federal programs which provide services to Indian Tribes and their members."[22] Subsequently, many tribes moved to self-governance and assumed full responsibility for the design and implementation of their programs without federal oversight.

In 1996, Congress moved to explicitly address the intersection of tribal sovereignty and housing. The Native American Housing and Self-Determination Act (NAHASDA)[23] recognized the rights of tribal self-governance and encouraged expansion of reservation housing options by allowing NAHASDA-allocated funds to be leveraged for new home construction. To further encourage homeownership opportunities, Congress enacted the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act of 2012.[24] The HEARTH Act was designed specifically to enhance self-governance over tribal lands and promote the efficient leasing of those lands for housing and business purposes. To exercise this authority, tribes must first adopt leasing regulations and submit them for approval to the BIA. This review process has itself become a bureaucratic hurdle to the development of trust lands. Currently, 26 tribal residential leasing regulation applications are awaiting BIA approval; only three tribal leasing regulations have been approved in FY19.[25]

Several federal programs support mortgage lending to Native borrowers.[26] These include the HUD Section 184 Home Loan Guarantee program (the Section 184 program), the Veterans Affairs Native American Direct Loan program (VA NADL), and the Department of Agriculture Rural Development Rural Housing Service 502 Direct Loan program (RHS 502). Collectively these programs have billions of dollars in loan authority. Sadly, not much of these funds and resources are reaching Indian Country, even when programs are designed specifically for AIAN borrowers. To deploy this enormous capital opportunity in Indian Country, we must have a normalized and complementary inter-agency lending process in Indian Country.

The HUD Section 184 program was established in 1992 with the specific mission of facilitating homeownership and increasing access to capital in Native communities. HUD describes the Section 184 as "synonymous with home ownership in Indian Country."[27] The Section 184 program has greatly expanded the supply of mortgage credit to Native borrowers by mitigating private lender risks. It provides lenders with a 100 percent guarantee for mortgages to Native borrowers, thus eliminating concerns related to the collateralization of trust land. In addition, its utility for new construction as well as existing homes, low down payments, low interest rates, and protection from predatory lending make the Section 184 program a very popular funding option for Native borrowers.

Figure 1 Number of HUD 184 Loans by Type of Land (1995-2018)



* The dashed line indicates the sum of tribal and individual trust.

While the Section 184 program has expanded access to mortgage finance for Native borrowers of all income levels, it has largely bypassed reservations. Only 7 percent of 184 program capital funded homes were on reservations in recent years, resulting in billions of dollars of federally guaranteed funds supporting communities outside of Indian Country. See Figure 1. Other federal programs that support mortgage lending on trust lands, the RHS 502 and the VA NADL programs, also are woefully underutilized on trust lands.

The VA NADL program is meant to serve Native veterans on reservation lands.[28] The program is similar to the VA standard home loan, offering favorable terms such as no down payment requirement and low interest rates. Today, American Indians, Alaska Natives, and Native Hawaiians serve in the military at one of the highest rates per capita of all population groups: 133,000 veterans identify as Native. Currently, there is a potential NADL-eligible population of 20,013 Native veterans who reside on trust land. However, between 2013 and 2015, the NADL program originated an average of 21 loans annually (the height of lending was 2003 with 120 loans and 2010 with 103 loans). It is noteworthy that most of these loans are made in Hawaii and the Pacific Island territories. This disproportionate use of the program outside of the lower 48 is possibly due to an established infrastructure in Hawaii for veteran benefits.

The RHS 502 program offers a path to homeownership for low- and very-low-income families living in eligible rural areas, home to most of Indian Country. Rural Development's webpage notes, "Providing these affordable homeownership opportunities promotes prosperity, which in turn creates thriving communities and improves the quality of life in rural areas."

Rural Development invested more than $6.2 billion in Indian Country between 2001 and 2018.[29] About half of those funds, $3 billion, were invested through the Rural Housing and Community Facilities programs for much-needed facilities such as community and senior centers, hospitals and clinics, schools and food distribution centers. However, of the 6,575 loans made through this program in 2014, only seven were to Native borrowers on tribal lands. As with the other federal programs, we need to ensure that Rural Development programs and resources are responsive to the current housing needs of tribes and tribal members on rural trust lands.

These powerful financial tools, established to help a most deserving population, are not reaching Native borrowers on trust land. To address problems underlying this system failure, the lending infrastructures in federal agencies that support the mortgage process must be normalized. They must follow a standard streamlined process, similar to "one stop"-type[30] model mortgage loan program, which can rely on a 30-day Title Status Report (TSR) turnaround from the BIA. They also needs trusted lending partners and program supports to reach Native borrowers in areas far from the lenders. Partnerships with Native Community Development Financial Institutions (CDFIs) and tribal housing entities are also important to connect the funds with institutions that understand the homeownership process in Indian Country. These partnerships could transform Indian Country.

Experienced Native CDFIs and tribally owned financial institutions, such as banks and credit unions,[31] provide much-needed credit building services and mortgage products to Native borrowers. These Native CDFIs are perfect partners to connect Indian Country with federal home loan programs, but their services are limited only by the amount of funding they have available.

For example, on the Pine Ridge reservation in South Dakota, Lakota Funds, the first Native CDFI, and Mazaska Owecaso Otipi Financial, offer affordable housing loans as well as home buyer and financial education. In the summer of 2019, they and the Four Bands CDFI on the Cheyenne River Sioux reservation were approved as re-lending intermediaries for the USDA 502 program. Loans to these Native CDFIs (33 years at 1 percent) will be used for housing on trust land. While USDA has struggled to connect 502 money with Native homeowners on trust land, Native CDFIs already have steady pipelines of mortgage-ready borrowers and the community presence necessary for long-term relationships to ensure successful homeownership.

Then, there are state-based initiatives, such as the New Mexico Tribal Homeownership Coalition and the South Dakota Native Homeownership Coalition. They, along with broader associations that provide technical support and advocacy such as the National American Indian Housing Council and CICD's National Native Homeownership Coalition, support a systems approach to shoring up the professional staff needed to plan, finance, and build homes in Indian Country. These local and regional coalitions are establishing important networks to support a well-functioning housing market, that includes contractors, inspectors, and appraisers.

Challenges to Mortgage Lending on Trust Lands

Making HUD 184 Work on Trust Lands

Despite the lack of any legal impediment to mortgage lending on trust lands, tribes and Native people continue to be unduly hindered in using their lands for good and productive purposes. Indeed, obstacles to effective use of trust lands for housing purposes remain severe and troubling.

For example, the large majority of mortgages to Native borrowers under the Section 184 program are now on fee land.[32] This is due in large part to the rapid expansion of the program in 2004 to off-reservation areas following a lengthy period of little or no tribal implementation of the program.[33] The number of Section184 mortgages made annually on trust land typically is in the low hundreds and has shown no sustained growth since the early 2000s.[34] Because Section 184 loans have federal guarantees and present no risk to the lender, their limited use on trust land reflects impediments other than borrowers' creditworthiness or other financial characteristics.

While the BIA is making good efforts to streamline its mortgage process,[35] institutional systems complicate the full utilization of the Section 184 and other federal mortgage programs on trust lands. These include an elaborate review process, bureaucratic delays, and the complexity of lending to low- and moderate-income borrowers. Holders of trust land must use a leasehold interest as collateral, which requires the tribe to issue a leasehold interest to the borrower, who then uses that interest as collateral. These transactions require two certified title status reports (TSRs) from the BIA and various federal environmental reviews and appraisals, which cumulatively result in a lengthy and involved process.[36] In a recent HUD-sponsored survey of lenders, "mortgage lending on tribal trust land remains a time-

consuming process that reduces the appeal of lending on tribal trust land, even with the federal guarantee. Lenders report that Section 184 Program loans can take up to 6 to 8 months to process and close; in some cases, it can take even longer."[37] (A chart illustrating the Bureau of Indian Affairs Mortgage Package Business Process is attached.)

These transactions are recorded in the BIA's Trust Assets and Accounting Management System (TAAMS) to track and record title on trust lands. The TAAMS system, designed to manage probate estates and payments of income from trust property, also includes property maps. It was not designed to function as a national recording system for real estate transactions on reservation lands. Nor is it publicly accessible like county property records. Moreover, because different areas of the BIA manage different information in TAAMS, it can become excessively difficult to issue the required real property records and TSR certifications. One immediate way to address the bottleneck is to provide HUD and tribes access to TAAMS, including certification for designated tribal individual users.

The continued difficulty of mortgage lending on trust land is suggested by both Figure 1 and the BIA mortgage package process (attached).

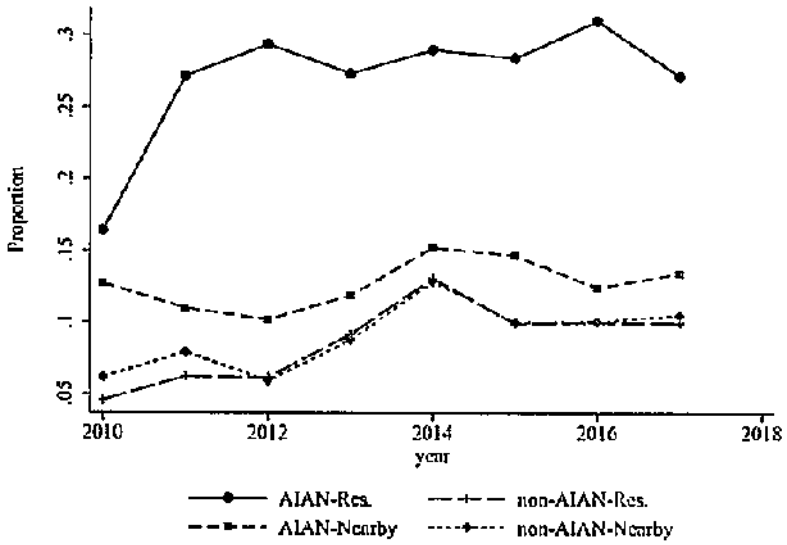
The High Price of Mortgage Financing for Native Americans

Access to affordable capital has been a constant challenge for aspiring Native American homeowners. However, new CICD research shows that mortgage loans with Native Americans as the primary borrower are also systematically more likely to be higher-priced.[38] Thus, even when private capital manages to reach Native borrowers in Indian Country, they may pay an unjustifiably high premium that greatly diminishes the possibility of accumulating equity and building wealth.

Using public data from the Home Mortgage Disclosure Act (HMDA),[39] the CICD study examined first-lien home purchase loans with attention to "higher-priced loans." The term "higher-priced" is defined in the data set as loans that have a rate greater than or equal to 1.5 percentage points above the Average Prime Offer Rate (APOR), and the rate spread of loans conditional on them being higher-priced, referring to the difference in percentage points from the APOR for a given loan. We wanted to know the answer to two questions: (1) What proportion of Native American loans are "higher-priced," and (2) What is the rate spread of those loans?

The CICD's findings show that loans with Native Americans as the primary borrower have an average interest rate nearly 2 percentage points above the average loan for non-Native Americans. These higher-priced home loans are found predominately on reservation lands. Around 30 percent of mortgages for Natives on-reservation were high-priced, compared to only 10 percent for non-Natives near reservations (see Figure 2, Proportion of High-Priced Loans On and Near Reservations). Native Americans burdened with high-cost mortgages had the highest average rate spread of any group in the U.S. For Native Americans on reservations with high-priced loans, the average spread in 2016 was 5 points above APOR. As an example, a Native American on-reservation with a higher-priced loan buying an average-priced home in 2016 could pay roughly $107,000 more in interest for a 30-year mortgage than a non-Native borrower off the reservation.

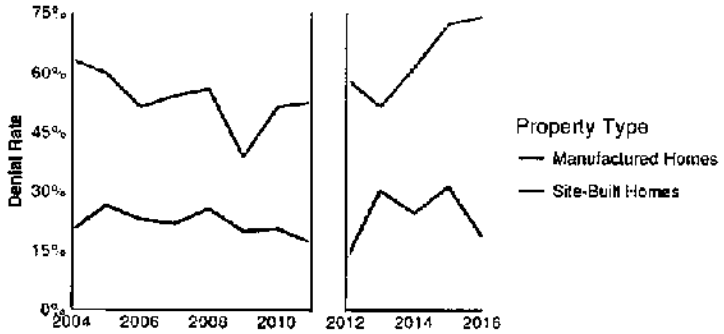
Figure 2. Proportion of High-Priced Loans On and Near Reservations



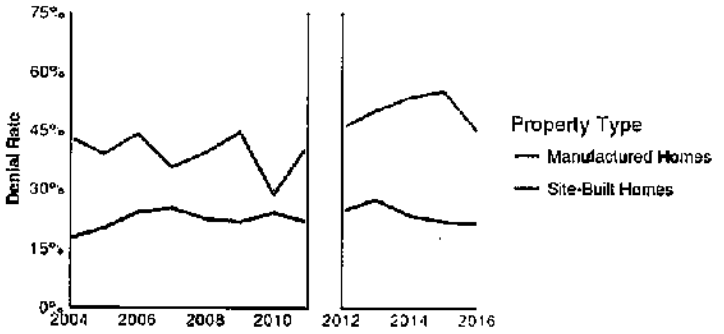
In the context of the high price of mortgage financing for Native Americans on trust land, it must be noted that Native buyers tend toward manufactured housing—and loans for manufactured housing often come with high-priced financing. The CICD analyzed HMDA data from 2004—2016 and found that Native Americans were far more likely to apply for manufactured housing loans across the U.S., but especially on reservations.[40] For example, in 2016, over 75 percent of home loan applications by Native borrowers on reservations were for manufactured homes. By comparison, only 5.1 percent of all home loan applications in the U.S. for the same year were for manufactured homes.[41] The data also showed that Native applicants had much higher denial rates for manufactured-home loan applications than for site built homes. For example, in 2015—2016, about 75 percent of applications for manufactured-home loans from Native borrowers on the reservation were denied.

Figure 3. AIAN Loan-Denial Rates by Property Type and Tract Overlap Category

Census tracts with >90% reservation housing units



Census tracts with < 10% reservation housing units



The prevalence of manufactured housing on trust lands may derive from the difficulties Native borrowers face in trying to finance site-built homes on their homelands. When purchasing a manufactured home, buyers may finance their home as personal property, a chattel mortgage similar to an auto loan, rather than as real property as in a typical mortgage. In so doing, borrowers may circumvent some of the delays associated with building on trust land. The simplicity of this financing, however, comes with a high price, may be subject to captive financing, and may place additional risk on the borrower. The CICD study on high-priced financing found that the prevalence of manufactured housing on reservation lands accounts for 25–35 percent of Native borrowers' higher cost of financing. Another CICD study shows that 67 percent of manufactured home loans to Native Americans were made by only two companies.[42] When Native borrowers purchase a manufactured home as personal—rather than real—property, they risk owning a less stable asset (the home alone) relative to traditional mortgage-holders, whose property value is tied both to their home and the land underneath it. While manufactured housing can offer less expensive construction and upfront costs, the higher interest rates, and denial rates—along with the potential for captive financing—raise serious concerns about the current use of manufactured housing in Indian Country.[43]

Opening Doors to Homeownership in Indian Country through Tribal Self-Governance

Several tribes and tribal housing authorities have created successful homeownership programs on trust lands by asserting self-governance over land leasing and titling processes. They also have developed internal capacity to manage complex financing arrangements and implement large-scale housing development. In doing so, they have demonstrated to their communities and to the rest of Indian Country the powerful impact of making affordable credit available to Native borrowers and creating an efficient lending process.

In the southwest, the San Felipe Pueblo of New Mexico built the Black Mesa View subdivision in the heart of its community and created full service home building, housing preservation, and related businesses that employ a wide range of workers and create opportunities to develop a skilled tribal workforce.[44] Employment from construction projects created a wide ripple effect as jobs were created over other sectors of the community, including manufacturing, retail, and business services.

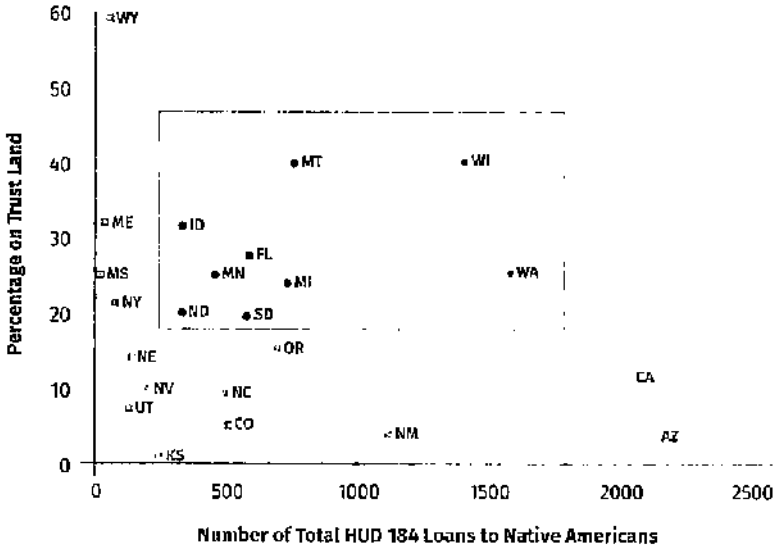
In Montana, the Confederated Salish and Kootenai Tribes of the Flathead Reservation established a tribal land office that assumes much of the BIA's lease processing and title work. The Tribes' housing program helps borrowers throughout the reservation become homebuyer ready and complete the mortgage process efficiently, while building up a dedicated and skilled tribal workforce in the process.[45] Meanwhile, tribally-owned Eagle Bank provides a ready source of capital for mortgages at competitive interest rates. Overall, the Salish and Kootenai are building a dynamic housing market that attracts a skilled and educated workforce.

On the high plains, the Cheyenne River Sioux Tribal Housing Authority has an ambitious 400-unit housing development project underway on tribal lands in Eagle Butte, South Dakota. When completed, Badger Park will offer an array of design options and affordable price points, mainly using factory-built construction. Financing for this impressive project is multi-layered and complex. Designing and executing construction plans required years of careful work, starting with a comprehensive community needs assessment.[46] Their patience and diligence paid off. More than a dozen families moved into these homes last spring, and scores more will be homeowners by the end of the year. The economic impact on the community emanating from this housing development is exponential, with increased demand for local goods and services, such as groceries and gas, and access to community amenities, such as schools and financial services.

In the Midwest, the Ho-Chunk Nation of Wisconsin effectively implemented the HEARTH Act and now provides land, leasing, title, and realty services within the boundaries of its 15,000-acre reservation, comprised mostly of trust lands.[47] In addition, Bay Bank, owned by the Oneida Nation in Wisconsin, supports a sizable HUD Section 184 mortgage portfolio for Native borrowers across the northern Midwest region.

The success of these tribes and the achievements of several others is illustrated in Figure 4, which shows by state the total number of HUD Section 184 mortgages from 1995 to 2015, and the percentage of those mortgages on trust land. Montana and Wisconsin are among the small group of states that rank at least moderately high in both important metrics, demonstrating that mortgage lending on trust land is viable if fully engaged with existing laws and programs.

Figure 4. States Where Tribes Are Making HUD 184 Loans Work on Trust Lands



* Omits OK (15,491 loans, 1.3% trust land) and AK (3,791 loans, 0.1% trust land)

Source: CICD staff calculations based on data provided by the U.S. Department of Housing and Urban Development

What is strikingly important is that all of these projects are being accomplished under the mantle of tribal self-determination and self-governance, producing models of success for all tribes. Additional case studies are explored in the CICD's *Tribal Leaders Handbook on Homeownership.*

Policy Considerations

Bringing housing and homeownership opportunities to all of Indian Country requires capacity, commitment, creativity, and collaboration. To do this, we need a multifaceted approach to normalize lending on trust lands, leverage billions of dollars or federal funding, and generate broad reservation-based economic development. Here are some suggestions:

1. Focus on trust land

CICD research has shown that most of the public resources for mortgage finance to Native households are being utilized on fee simple lands. Lender surveys suggest that the additional complexity of lending on trust land depresses the availability of credit and capital for home loans. The barriers to building housing or otherwise leveraging opportunities on trust lands limit Native people's ability to live wherever they chose and to pursue meaningful economic development strategies in their communities.

Addressing the issues with trust land homeownership will require coordination and collaboration across the multiple federal agencies that assist Indian Country with homeownership. In order to maintain this focus, better data practices are needed to identify and map high-needs rural areas and persistent poverty counties, and overlay them with high Native populations on or near trust land. The Department of the Interior should provide tribes with current, accurate, and easily accessible information about their trust lands, along with data on land ownership and encumbrances (including rights of way).I772. Modernize the lending process on trust land

Streamlined processes and reliable data are key components of a modern and efficient lending system on trust lands. To better understand housing needs and determine whether these programs are being put to good use in Indian Country, lenders and tribes both need access to data on a timely basis and in a transparent manner. Requests for updated data often go unheeded, even though the data are generally

available and sharing is not burdensome. Furthermore, data sharing, analysis, and reporting are critical to allocating scarce resources and holding federal programs and private lenders accountable to constituents.

Additionally, the BIA lending system must be streamlined to meet the market demand from Indian Country. This includes reform of the BIA title, lease, and land records processes to conducting environmental reviews on trust lands. The importance of well-trained and responsive BIA and tribal staff cannot be underestimated—they are essential to supporting an efficient lending process in Indian Country. [48] But their apparent priorities do not seem congruent with the pressing need for supporting more housing development. Many tribes, tribal housing authorities, and other housing developers have yet to utilize the full potential of their programs for housing development on trust land. Consequently, every year millions of federal funds fail to reach Indian Country. Thus, modernizing the lending process requires a laser-focus on tribal selfgovernance and land development tools such as the HEARTH Act and private sector financing.I773. Expand access to capital and credit in Indian Country: increase funding and technical assistance for Native CDFIs

As conventional lenders retreat, Native CDFIs are emerging as critical sources of capital. With local presences and professionals experienced in Indian Country, Native CDFIs are wellpositioned to service private mortgages, federal direct loans, and federal mortgage guarantees. Native CDFIs also can be started with a much lower barrier to entry than banks and even credit unions, and so are easier to access as vehicles for credit on reservations while also providing essential services like small business loans and, in some cases, depository accounts.

In 2017, the CICD and the Minneapolis Fed's Community Development Department, with help from the Native CDFI Network and First Nations Oweesta Corporation, surveyed certified Native CDFIs across the U.S. about their programs and funding. Findings from this study suggest there are large unmet lending opportunities in the industry. [49] When asked about what prevents their organization from providing programs and services, respondents overwhelmingly cited limited financial resources as the leading factor. The estimated additional amount needed to meet Native CDFI funding needs in 2017 was around $96 million. These additional funds would be used primarily to expand existing services, but also to expand into new services or new service areas (staff and capital). This includes technical assistance in becoming certified relenders and sellers of mortgages to Fannie Mae.

Actions to support Native CDFIs with capital and technical support will be vital to expanding homeownership in Indian Country.I774. Use innovative loan products.

Access to capital includes having funds to loan and also the ability to maintain liquidity. This is even more critical for community lenders who provide services to high-need markets, such as Indian Country. Federal agencies and lending institutions should explore a wide range of capital and investment opportunities that support Native homeownership. The USDA Rural Development pilot program in South Dakota using Native CDFIs as re-lenders of the Section 502 direct home loans on trust land demonstrates the capacity and opportunity for growth of the loan program and the Native CDFI.I775. Support investment pools and secondary markets.

Indian Country also could benefit from innovative solutions that address lenders' concerns about risk and to shore up capital for investment needs. On the mortgage lending side, First Nations Oweesta Corporation is becoming a national capital pool for Native CDFIs. Another possibility is pooling leasehold mortgages as a way to offer investment-quality mortgage-backed securities to a wide range of investors. On the risk side, the Sisseton Wahpeton Tribe in South Dakota has established a risk mitigation pool to reduce the liquidation risk of mortgage lenders operating on trust land, even as the Tribe supports to maintain heir homes and credit.

Access to secondary markets is essential to create liquidity and keep capital circulating for more mortgage lending. Loan products such as Fannie Mae's Native American Conventional Lending Initiative single-family loan program provide an important mechanism for community banks, credit unions, and Native CDFIs. It helps to deploy conforming conventional loans that can be readily sold on the secondary market pursuant to a tri-party agreement between Fannie Mae, the tribe, and the lender. This type of arrangement is a useful model for other lenders to consider because it provides a structure that ensures efficiency of funding, suitable loan servicing, and appropriate remedies, all of which support better systems for tribes.

Opening Doors to Homeownership in Indian Country

Indian Country's growing population, positive economic growth, and increasing demand for homeownership present a momentous opportunity for tribal communities, lenders, and the United States. Innovative tribes and lenders are already finding a way to expand housing and homeownership opportunities in Indian Country despite generations of economic deficits, lagging infrastructure investments, and heavy

bureaucratic burdens. They are re-establishing a connection to the land and igniting the engines of economic self-sufficiency. Indeed, today's tribal leaders are framing their efforts with community-determined goals and designing new paths forward to lift and support their people.

We need to recognize and support these efforts, and foster this forward momentum. This means tackling the procedural barriers head on, ensuring access to capital at fair rates, and creating more housing options on trust lands. Opening the door to homeownership also means instilling hope for future generations of Native communities and families. This work—bringing new resources and ideas into action in Indian Country—requires many hands. It can be done only through partnerships, collaborations, and community commitments.

ENDNOTES

[1] See Listokin, David et al., Mortgage Lending on Tribal Land: A Report from the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs, U. S. Department of Housing and Urban Development, December 2016 (hereafter Mortgage Lending on Tribal Land Report). "Actual" homeownership here refers to non-rental status.

[2] Feir, Donna. The Higher Price of Mortgage Financing for Native Americans, CICD Working Paper 2019–06 (2019) (hereafter Higher Price Mortgage Financing for Native Americans).

[3] See the Center for Indian Country Development website for research paper and research resources, including the Tribal Leaders Handbook on Homeownership (2018) (hereafter TLHH). The CICD published the TLHH as a comprehensive guide to the mortgage lending process in Indian Country and a resource for addressing challenges to homeownership. It includes "best practice" case studies illustrating how tribes overcame financial and institutional obstacles through innovation and perseverance to create homeownership in their communities.

[4] For a thorough discussion on the history of and contemporary issues facing mortgages on trust land, see Davila, Christina, and Keith Wiley, Exploring the Challenges and Opportunities for Mortgage Finance in Indian Country, Housing Assistance Council, Washington, D.C., 2018.

[5] Federally recognized American Indian tribes and Alaska Native villages have a government-togovernment relationship with the United States and possess inherent rights of self-government (i.e., tribal sovereignty). Because of this political relationship, the federal government has a general trust obligation to promote the welfare of Native peoples by providing housing, health care, and other services on reservations and tribal areas.

[6] Trust lands are tribal lands held by the federal government in trust for the use and benefit of tribes and Native people, most of which are located within reservations. Trust lands may not be encumbered or conveyed without the consent of the federal government.

[7] As used herein, the term Native people will be used interchangeably with the U.S. Census category of American Indian and Alaska Native (AIAN).

[8] From 2000 to 2010, the growth rate for the total AIAN population in tribal areas was 12 percent. See Pindus, Nancy, G. Thomas Kingsley, Jennifer Biess, Diane Levy, Jasmine Simington, and Christopher Hayes, Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report from the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs, U.S. Department of Housing and Urban Development, Office of Policy Development and Research, January 2017 at 15–18 (hereafter HUD Tribal Area Study). The U.S. Census Bureau forecasts continued growth rates for the AIAN population, projecting a rise in the AIAN-alone population to about 4.2 million people by 2030. See Pettit, Kathryn L.S., G. Thomas Kingsley, Jennifer Biess, Kassie Bertumen, Nancy Pindus, Chris Narducci, Amos Budde. Continuity and Change: Demographic, Socioeconomic, and Housing Condition of American Indian and Alaska Natives. U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Jan. 2014, at 8.

[9] HUD Tribal Area Study at 10. This report studied "tribal areas," as used by the U.S. Census Bureau, which generally includes Indian reservations and counties that encompass or surround them.

[10] For a more thorough discussion of the problems of overcrowdedness in Indian Country, see: Overcrowded Housing and the Impacts on American Indians and Alaska Natives. Field Hearing before the U.S. Senate Committee on Indian Affairs, S. Hrg. 115–404, August 25, 2018.

[11] HUD Tribal Area Study, Exhibit ES.3, at XXI.

[12] National data on Native communities is aggregated and reported as generalized observations, lacking much contextual information at the tribal level. To better understand the needs and assets of their communities, several American Indian

tribes have undertaken tribe-specific community assessments, including a more accurate reservation census count, the number of habitable housing units, and a survey of housing needs.

[13] Taylor, Lauren A., Housing and Health: An Overview of the Literature, Health Affairs Health Policy Brief, Jun. 7, 2018.

[14] HUD Tribal Area Study at 86.

[15] (a) "Housing Needs and Homeownership Study," Yankton Sioux Tribe and Big Water Consulting, June 2019; (b) "Housing Needs and Homeownership Study," Standing Rock Community Development Corporation and Big Water Consulting, June 2019; (c) Case Study: Housing Needs Study, Cheyenne River Housing Authority, Eagle Butte, South Dakota, TLHH at 48 (hereafter Housing Needs Case Study); (d) Model Housing Needs Assessments, TLHH Appendix at 141.

[16] Kunesh, Patrice H., Creating Sustainable Homelands through Homeownership on Trust Lands, in "Meeting Native American Housing Needs," Rural Voices, Housing Assistance Council, Washington, D.C., Fall 2017.

[17] (a) Akee, Randall K. Q., Katherine A. Spilde, Jonathan B. Taylor, The Indian Gaming Regulatory Act and Its Effects on American Indian Economic Development, Journal of Economic Perspectives 2015 v. 29, 185–208; (b) Akee, Randall K. Q., Maggie R. Jones, Sonya R. Porter. Race Matters: Income Shares, Income Inequality, and Income Mobility for All U.S. Races. Demography 2019 v. 56, 999–1021.

[18] The modest increase was $9,650 in 1990 to $14,355 in 2018 (a 48 percent increase, compared to a 9 percent increase for all Americans).

[19] Akee, Randall K. Q., William E. Copeland, Gordon Keeler, Adrian Angold, E. Jane Costello. Parents' Incomes and Children's Outcomes: A Quasi-Experiment Using Transfer Payments from Casino Profits. American Economic Journal: Applied Economics 2010 v. 2: 86–115.

[20] Feir, Donna, The Landscape of Opportunity in Indian Country: A Discussion of Data from the Opportunity Atlas. CICD Working Paper 2019–03 (2019).

[21] Feir notes that this is exploratory research and the findings are nuanced depending on the particular unit of observation (census tracts versus tribal statistical areas). This study seeks to ascertain the experiences on census tracts covered by tribal statistical areas, which approximate American Indian reservations.

[22] Indian Self-Determination and Education Assistance Act of 1975. Public Law 93–638. 88 Stat. 2203–2217, Jan. 4, 1975.

[23] Native American Housing Assistance and Self-Determination Act of 1996. Public Law 104- 330. 110 Stat. 4016–4052, Oct. 26, 1996.

[24] The HEARTH Act of 2012, Public Law 112–151, which creates a voluntary, alternative land leasing process available to tribes, amended the Indian Long-Term Leasing Act of 1955, 25 U.S.C. Sec. 415 (July 30, 2012).

[25] CICD staff conversation with Sharlene Round Face and David Moran, U.S. Department of the Interior Bureau of Indian Affairs HEARTH Act Training, Sept. 4, 2019, Albuquerque, New Mexico.

[26] A list of Federal Mortgage Programs for Native Americans is attached.

[27] U.S. Department of Housing and Urban Development Section 184 Indian Home Loan Guarantee Program. *https://www.hud.gov/section184*, accessed Oct. 9, 2019.

[28] The NADL program, which began in 1992, focuses on assisting veterans who live on federal reservation lands, Alaska Native villages, and Hawaiian Homelands. The NADL program differs from the standard VA loan in a fundamental way—it is not a guarantee made by private lenders, but a direct loan made by the VA. The NADL requires that tribes establish memoranda of understanding (MOU) with the VA that delineate how the program operates and the responsibilities of both the tribe and the federal government, including the process to collateralize the loan on trust land.

[29] See "Collaborating for Prosperity With American Indians and Alaska Natives Rural Development Programs for Tribes, Tribal Families, Children, and Communities," USDA Rural Development Innovation Center (2018). *https://www.rd.usda.gov/files/508_RD_TribalReport_2019.pdf*

[30] U.S. Department of Housing and Urban Development and U.S. Department of the Treasury. 2000. One-Stop Mortgage Center Initiative in Indian Country: A Report to the President. Washington, DC: U.S. Department of the Treasury.

[31] For a full list of Native American financial institutions and the scale and scope of their assets, see Mapping Native American Financial Institutions, a dynamic map of Native owned banks, credit unions, and community development institutions.

[32] HUD Tribal Area Study at 86.

[33] Mortgage Lending on Tribal Land at 10.

[34] Analysis of data provided by HUD conducted by Center for Indian Country Development staff.
[35] For instance, the BIA recently released a mortgage handbook to delineate its review and approval process. U.S. Department of the Interior, Bureau of Indian Affairs, Division of Real Estate Services, 52 IAM 4–H, Indian Affairs Mortgage Handbook, July 15, 2019.
[36] Along with the leasehold (similar to owning a townhouse or condominium in which the land and the dwelling unit are separate property interests), the Bureau of Indian Affairs must approve a land survey and environmental review, and then issue a certified title status report on the property (delineates the legal description and encumbrances on the property). The process for obtaining a final TSR can be lengthy and involved. The HEARTH Act of 2012 creates an alternative land leasing process that encourages tribes to make their own decisions about leasing and leverage their lands for optimal development.
[37] Mortgage Lending on Tribal Land at viii.
[38] Higher Price Mortgage Financing for Native Americans.
[39] Home Mortgage Disclosure Act of 1975, 29 U.S.C. § § 2801–2811.
[40] Todd, Richard M. and Kevin Johnson, Race, location, and manufactured-home loans on American Indian reservations, CICD Blog, Dec. 4, 2018.
[41] Todd, Richard M. Manufactured-Home Lending to American Indians in Indian Country Remains Highly Concentrated, CICD Blog, Dec. 1, 2017 (hereafter Highly Concentrated Lending).
[42] Highly Concentrate Lending. Both of these two lenders are owned by Clayton Homes.
[43] For a more comprehensive discussion of manufactured housing in Indian Country, see: Manufactured Homes: An Affordable Ownership Option. Ch. 11, TLHH.
[44] Case Study: Large-Scale Tribal Subdivision Black Mesa View, San Felipe Pueblo, New Mexico. TLHH at 25.
[45] Case Study: Homebuyer Readiness Program, Salish and Kootenai Housing Authority, Pablo, Montana. TLHH at 57.
[46] Housing Needs Case Study.
[47] Case Study: HEARTH ACT Implementation, Ho-Chunk Nation Reality Division, Black River Falls, Wisconsin. TLHH at 88.
[48] Indian Programs: Interior Should Address Factors Hindering Tribal Administration of Federal Programs. U.S. Government Accountability Office, January 2019.
[49] Kokodoko, Michou, "Findings from the 2017 Native CDFI Survey: Industry Opportunities and Limitations," CICD Working Paper No. 2017–04, November 2017.

The CHAIRMAN. Again, I would like to thank all of the witnesses for being here. We will have five minute rounds of questions. I am going to start with Mr. Kurtz.

My first question is, why do tribes need separate MOUs with each Federal agency that offers home loan products? Examples would be, you have the 184 loan MOU with HUD, but then if they want to do a VA loan, they need a separate MOU with VA.

Mr. KURTZ. Not to split hairs, but we don't require an MOU which, in our world, is a lot more technical document. We do have to sort of sign off on the tribes involved with the 184 process. But I think that is a real interesting point, to look at how we could standardize the certification across the Federal Government. That is something I am happy to look into.

The CHAIRMAN. That is something you might be able to work on?

Mr. KURTZ. Absolutely.

The CHAIRMAN. Why is the 184 Home Loan Guarantee Program so underutilized on the reservation?

Mr. KURTZ. Well, the program was designed to provide housing opportunities for Native Americans living anywhere, not just on reservations or trust land. But we are going through a rulemaking process right now to try to reduce some of the regulations in the 184 program to bring them up to industry standards. In that process, we are looking at ways we can increase the amount of loans

on trust lands. But we also always have to sort of walk a fine line here, because there are some areas of the Country that don't have any trust lands, such as Oklahoma or Alaska. So it is always a bit of a fine line about how we go about doing that.

The CHAIRMAN. What are your priorities in this new post?

Mr. KURTZ. I have three main priorities in sort of everything I do. I call them my three Ps, it is people, programs and properties. Trying to help the people, that is why I work in the affordable housing industry. Providing someone with a home is, in my mind, one of the easiest ways we can help people.

Our programs, how we can reform, make our programs better and more streamlined, and how we can give more local control. As I said in my testimony, what works in Detroit, which I could go on about for hours about, it doesn't mean it works everywhere else in the Country, and how we get our programs to work well. And then properties, involve how do we provide people with decent, safe and affordable housing? I honestly think one of the things we are doing that encompasses all three is the reforms to the 184 program, as well as our competitive program for the Indian Housing Block Grant Program.

The CHAIRMAN. Do you think we should have a separate Indian Housing Program, separate from the Public Housing Program?

Mr. KURTZ. I do, sir. Public housing is the 800 pound elephant at HUD. Budget-wise, it is a massive program. We need to elevate the Office of Native American Programs to have the Assistant Secretary work fully and solely on these really unique and important issues that are faced by Native Americans across the Country.

The CHAIRMAN. Thank you.

Councilman Mount, how come the mortgages are higher priced on the reservation versus off?

Mr. MOUNT. The main thing is that there are so many Federal impediments to getting a home loan on trust land that the interest goes up, it increases costs to the mortgage lenders. Not only that, banks also have huge misconceptions about lending on reservations. They are a little biased about it.

I have one example. As a commercial loan, our tribal corporation, Island Mountain Development Group, they took out a commercial loan for a new call center. They were required to put 50 percent down, which was $400,000, and their interest rate was 16 percent.

The CHAIRMAN. Sixteen percent, really?

Mr. MOUNT. Yes. It is ridiculous. A lot of it is just misconception.

The CHAIRMAN. What about a categorical exemption for lending on the reservation?

Mr. MOUNT. Categorical exclusion?

The CHAIRMAN. Yes.

Mr. MOUNT. Oftentimes, it is really burdensome; it is really messy. And it is unnecessary. I also have one example for that, also. One of our tribal members was getting a home loan through the 184 process, the CEO of our corporation. He had to get an EPA specialist to come and say that he was not going to disturb any coastal land in north central Montana.

[Laughter.]

Mr. MOUNT. It is ridiculous. It is unnecessary and burdensome.

The CHAIRMAN. Director LaCounte, you talked about TAAMS. You are getting that expedited. That is holding up some of these loan applications. You are going to take care of that?

Mr. LACOUNTE. I am taking care of that, absolutely.

The CHAIRMAN. You have to keep working on that. They have to have a streamlined process, so that is not holding up things.

Mr. LACOUNTE. We have definitely made some major changes.

The CHAIRMAN. You talked about it a little bit but just so you are staying on it. Of course, the key is at the end of all the things you talked about, we have streamlined the process and they are getting the approvals.

Mr. LACOUNTE. The portal I spoke about will allow the tribes, HUD, anybody to get to the data without having to actually get into the system and go through the background checks and the training that is required.

The CHAIRMAN. You went through it pretty well, but just so you are watching to make sure that results in the expedited approvals.

Mr. LACOUNTE. I will do that.

The CHAIRMAN. Because I know guys like Senator Tester are amazing with technology and computer systems, but guys like me have a little more trouble. I just want to make sure once you have done all that computer work, it actually gets the applications through the process expeditiously.

Ms. Kunesh, how do we get some of those innovative programs to be used, so that people know about them out there in Indian Country and use them? What do we do?

Ms. KUNESH. The Native CDFIs are everywhere and we have seen this in the Honorable Governor Zuni's testimony. Native CDFIs, I think, are really filling a void of lending in Indian Country. They are considered closest to the constituents. They know their communities, they are preparing people to be homeowners, not just your financial education but an understanding of the responsibilities of maintaining a home. They are originating loans; they are actually creating loan products that serve and meet the community needs.

I support Native CDFIs stepping into this role and through the 502 program, for example, at USDA. I worked at USDA and I saw the billions of dollars that go out into community support and community building but bypassing reservations. So using Native CDFIs to be the re-lenders to support that lending.

That could work for HUD, perhaps that could work for VA. But they are ready, willing, and a well-trained workforce. Not only that, but they are working with Fannie Mae, for example, to create a secondary market. A 30-year mortgage is a substantial investment not just for the borrower but a huge commitment for the lender. So we need a secondary market to sell these loans and replenish the capital in Indian Country.

They need more capital. We did a survey of Native CDFIs a few years ago. The very conservative estimate at that point was about $48 million of unmet lending need that their constituents were needing. We think it is probably triple that number. So, more capital, more support and using them to deliver the programs is important.

The CHAIRMAN. When you talk about selling those loans, are you talking about guaranteed or are you talking about non-guaranteed loans?

Ms. KUNESH. These are non-guaranteed loans. These are conventional loans.

The CHAIRMAN. So that is more challenging, who could be the broker to sell those unguaranteed loans. How about on guaranteed?

Ms. KUNESH. On guaranteed, those are, of course, the Federal Government guarantees those loans.

The CHAIRMAN. But unguaranteed, give me a for instance.

Ms. KUNESH. A conventional loan, a 30-year mortgage, Native CDFI, there is a wonderful example out of Maine, it is the Four Directions. They have a 30-year mortgage, and stacking those, two, three, four, ten mortgages, add up to a lot of money. They need to replenish not only their capital but they need to sell those loans, get them off their portfolio. They are being trained by Fannie Mae to be able to sell those loans, to be certified to sell those loans to Fannie Mae. That relieves them of the obligation.

They may take on some servicing needs on the back end, too, so they are also able to create an income revenue.

The CHAIRMAN. Thank you. Vice Chairman Udall.

Senator UDALL. Thank you, Mr. Chairman.

Governor Zuni, the Tiwa Lending Service partners with your Pueblo's housing authority and other Isleta government offices to make the dream of homeownership a reality for tribal members in and around the community. It has been incredibly successful.

You testified after only eight years in operation, Tiwa has a mortgage portfolio totaling $7.4 million and a zero percent default rate. That is truly incredible.

As a Native CDFI, how does Tiwa accommodate the unique factors such as poor and no credit having a chilling effect on traditional mortgage lending in Indian Country?

Mr. ZUNI. That is because they had to be certified, they had to go to the classes, and they are really devoted. The people who go to Tiwa Lending, of course, they have to pass certain things. But because of the process, it is a shorter process.

Right now I think we have 78 members in that group. They are really enjoying that program. They design their own homes, they get their own contractors, and appropriation is done quite quickly through the Tiwa Lending. That is why a lot of our tribal members now, and I am hoping other tribal members throughout the Nation, can go to that process. It is a very, very nice program for each tribe to have.

Senator UDALL. How would Isleta Pueblo's residents finance their home loans without Tiwa?

Mr. ZUNI. They would have to go to the HUD Program. There is not a mortgage company that would associate with our sovereign Nation. It is hard for them to go to a bank in the city areas to get a program because of our trust land. So it is very difficult for anybody to go outside unless it is a mobile home, which they can take away, but not a permanent home.

Senator UDALL. Director LaCounte, we just heard Governor Zuni describe the unique role that Tiwa Lending Services has in promoting and enhancing Isleta Pueblo's tribal economy, particularly

as it relates to homeownership. And Ms. Kunesh testified that Native CDFIs are "critical sources of capital as traditional lenders retreat from tribal economy."

So why has the Administration proposed to completely eliminate funding for the Native CDFI Program for the past three fiscal years?

Mr. LACOUNTE. My understanding is that they believe there are other Federal agencies that are much more equipped to handle housing than the Bureau of Indian Affairs. That is my understanding, Senator.

Senator UDALL. But there is no doubt this is a crucial, crucial program. Can you commit to advocating to ensure that this vital funding is not on the chopping block in future fiscal cycles?

Mr. LACOUNTE. I can commit to attempting to do that.

Senator UDALL. Good. That is what we want you to be working at.

Ms. Kunesh, I was alarmed to see in the chart on page five of your written testimony which seems to indicate that the number of Section 184 loans that HUD guarantees on fee and trust lands has been in decline since 2016. Is that right?

Ms. KUNESH. Yes, sir.

Senator UDALL. Can you explain how CICD arrived at this conclusion?

Ms. KUNESH. We obtained data from HUD. We had data up through I think 2015, 2016, and then I think on Friday, we got additional data and were able to put together the graph. We see a noticeable dip in the volume of lending since 2016.

Senator UDALL. Mr. Kurtz, the CICD's chart, based on HUD's own data, appears to contradict your testimony that the HUD Section 184 program is a continuing success. Can you explain the drop in Section 184 lending since 2016?

Mr. KURTZ. Since 2016, we have actually seen a 50 percent increase in the amount of lending in trust land. So we are seeing an increase after that little drop.

Senator UDALL. Since then. But it is accurate what they are saying here about what happened?

Mr. KURTZ. Yes, in 2016, there was a decline, but we are seeing that increase. We hope that our regulations we are currently working on will further that increase in trust land.

Senator UDALL. So, lenders aren't leaving the market then? That is what we are really worried about with those kinds of numbers.

Mr. KURTZ. I am sorry?

Senator UDALL. Are lenders leaving the market?

Mr. KURTZ. I can't say for certain. I don't believe so. But coming from the City of Detroit, we also saw a lot of underserved lending in areas. It is a problem that all of us need to work together to try to limit its effects.

Senator UDALL. Mr. Kurtz, the Center for Indian Country Development examined loans that were made to tribal members for manufactured mobile homes, and found these loans are not only more prevalent among Native Americans living on trust land but also more costly than loans for conventional brick and mortar homes. A primary reason for this trend appears to be that mobile home loans simply take less time than a typical mortgage for homes built on

trust lands, even though mobile homes depreciate in value quickly and are not as durable as conventional brick and mortar-built homes.

In light of this finding, is HUD exercising oversight into the current use of manufactured housing in Indian Country?

Mr. KURTZ. We do have oversight, in the sense that we need to ensure that manufactured housing property, that the property meets certain standards that are statutorily set, as well as any additional standards that the tribal leaders can place on the property. Because of the sovereignty, the tribes can place additional regulations, if you will, on what a property can look like in the 184 program.

Senator UDALL. Are you concerned with the CICD's findings that loans for manufactured housing come with high-priced financing and that this financing may be subject to captive financing?

Mr. KURTZ. I was unaware of that issue, but we will definitely look into it.

Senator UDALL. Thank you.

How does HUD work with lenders and borrowers to ensure that the borrowers receive the best possible rate for their home loan, and that they are not taken advantage of by the lender?

Mr. KURTZ. We have dedicated staff that does monitoring to ensure that the program is working effectively. If there are issues, we try to address them.

Senator UDALL. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman and Ranking Member Udall.

First things first, it is good to see Tony Walters, former ace, crack staffer of the Indian Affairs Committee in the audience. It is good to have you here. He is known amongst my crew as the urban Magic Johnson of the hardwood.

[Laughter.]

Senator TESTER. At any rate, Mr. Kurtz, you talked about Section 184 reforms, how it is going to give more local control. I do not want to put words in your mouth but that is what I heard, right?

Mr. KURTZ. Yes.

Senator TESTER. So tell me, Nate Mount just talked about the fact that there is climate change, but I do not know that it is quite to the extent of having coastal waters in Montana anytime soon.

But can you tell me how it is going to empower Native Americans, give them more local control so they will not have to jump through those kinds of silly hoops?

Mr. KURTZ. We are looking at ways across the department to address some of the environmental issues that are faced by the programs, the environmental regulations faced by the programs.

Senator TESTER. You are part of HUD. What he talked about was EPA. Are you going to be able to impact that kind of stuff? It looks to me like somebody needs to make sure they have a job.

Mr. KURTZ. It is kind of ridiculous, what we are hearing today.

Senator TESTER. Not kind of, it is.

Mr. KURTZ. I am happy to look into it.

Senator TESTER. I would just hope that when you do your—look, there are reasons for certain levels of regulations because of taxpayer dollars and all that, but the truth is that you have to stay grounded. Hopefully you will do that. I really do think if we can empower local tribes and hold them accountable, I think we will get a better result.

Mr. KURTZ. I couldn't agree with you more, sir. I was a career civil servant for six years at HUD, and had the unique opportunity to write some rules and regulations that I had to implement when I was in the City of Detroit. They made a lot more sense when I was sitting here than they did in Detroit.

Senator TESTER. Do you work, does HUD work, or do you know if HUD works with many tribal CDFIs?

Mr. KURTZ. We do. CDFIs can be lenders in the 184 program.

Senator TESTER. How prevalent is that?

Mr. KURTZ. There are a handful. I could not tell you the exact number. I would have to get back to you on that.

Senator TESTER. Do you look for opportunities with tribal CDFIs?

Mr. KURTZ. I don't believe we actively do, but it would make sense. It is something to look into.

Senator TESTER. Do you think you could do that?

Mr. KURTZ. We definitely could look into it.

Senator TESTER. Once again, I think there is an opportunity to really get to a problem. Nate talked about it. Did you say 75 to 85 percent unemployment in your neck of the woods? If you drove up there, you would say, am I in the inner city of Chicago, because the housing us really tough.

Nate, Ft. Belknap I think became the first Montana tribe to submit a tribal leasing regulation for BIA approval. Is that correct?

Mr. MOUNT. Yes.

Senator TESTER. When did you do that?

Mr. MOUNT. We did it in September of this year.

Senator TESTER. So it has been a month?

Mr. MOUNT. Yes.

Senator TESTER. Have you heard anything back from BIA?

Mr. MOUNT. This morning we spoke with one of the solicitors, Mr. Dave Moran. He assured us that the process will be streamlined, but we are really concerned because we do have a backlog.

Senator TESTER. Did he tell you when he was going to get back with a response saying yea or nay?

Mr. MOUNT. He didn't give us an exact date, no. He said it would be within the 120-day timeframe, but there is a backlog there.

Senator TESTER. Darryl, you knew this was coming. What can you add to this conversation about getting this approved, which will enable Ft. Belknap to execute and approve individual rental leases?

Mr. LACOUNTE. What I have witnessed and seen since I got to D.C., Senator, is that although I am not an advocate of centralizing any programs, I am centralizing the HEARTH Act approvals. Because as he requested in his testimony, not knowing that I was doing that, I am looking for that same person, that HEARTH czar that knows the system.

I will also add that the solicitor's office has committed to me in the past two weeks that they will add another solicitor besides Mr. Moran, whom he just mentioned. We are definitely addressing it.

Senator TESTER. So I got it. In order to have a good centralized system, you have to have continuity of employment. I don't need to tell you about BIA's lack of continuity in employment. I don't know how many people you have worked with, Nate, but it is probably more than five, maybe more than I have fingers, actually.

That is a real problem and a real frustration. Can I get some sort of commitment from you, Darryl, you will see that they get their approval ASAP?

Mr. LACOUNTE. Certainly.

Senator TESTER. That is good.

Mr. LACOUNTE. We are going to address the hurdles that are there.

Senator TESTER. I have one more and then I am going to turn it over. You talked about the Enterprise Data Management System and how this is going to bring TAAMS and other fragmented databases into one. How close are you to having that to reality? I think it is a great idea and I applaud the effort. I think the Chairman said the same thing. How close is it to reality?

Mr. LACOUNTE. It is within a year.

Senator TESTER. Within a year?

Mr. LACOUNTE. Yes.

Senator TESTER. So when we have this hearing next year, it will be done and people like HUD, the staff they want, and the local tribes can get access to that database?

Mr. LACOUNTE. The portal itself should be within a month, the portal to get to the TAAMS data. But the bigger database that incorporates other systems is not ready.

Senator TESTER. They will have access to TAAMS within a month?

Mr. LACOUNTE. Access to the data in TAAMS.

Senator TESTER. In TAAMS?

Mr. LACOUNTE. In TAAMS.

Senator TESTER. That is cool.

Mr. LACOUNTE. Let me rephrase.

Senator TESTER. They will get back to me if they do not have access.

Mr. LACOUNTE. I had better give myself two months.

[laughter.]

Senator TESTER. Okay, you have 60 days. That sounds good.

Thank you very much. I appreciate all your testimony. Tell Neel Kashkari hello.

The CHAIRMAN. Senator Schatz.

STATEMENT OF HON. BRIAN SCHATZ,
U.S. SENATOR FROM HAWAII

Senator SCHATZ. Thank you, Mr. Chairman. Thank you to all the testifiers.

Governor, thank you for being here. I am going to start with you. Talk to me a little bit about the process of becoming a CDFI. How long did it take, how hard was it, how much organizational capacity, manpower, person power did you need?

Mr. ZUNI. They started that in 2009. We finally got it approved in 2013 if I remember correctly. It was about a three to four year process.

Senator SCHATZ. I assume you are talking to other tribal leaders. Is that similar in terms of how long it takes to accomplish?

Mr. ZUNI. Yes, to get the funding and everything done and CDFI certification.

Senator SCHATZ. I do not want to lose this opportunity for you to tell us how we can help these individuals from the Executive Branch to expedite this process because we have 60-odd Native CDFIs, 3 in Hawaii, but we have 500-plus tribes and Native organizations. If this ends up being the solution because the private lenders are skittish about being in this market, then we need to do a lot better than 60. We really need to scale this up and make it workable. Because you are a well-organized tribe, well led, you are able to kind of plow through the bureaucratic morass.

My question is, how can we make it quicker and how can we ask these people to make it quicker?

Mr. ZUNI. Of course the help through you, to expedite it by changing the policies or whatever you can, and working with the BIA and HUD to eliminate some of these obstacles that we face.

Senator SCHATZ. Mr. Kurtz, what do we need to do about this? I don't believe most of this is required by statute. I just think this is a regulatory thicket that has sort of emerged over many, many years. And in your defense, CDFI, when we developed the statutes, including those that govern the agencies that you are in charge of, we didn't anticipate this solution to kind of emerge. But now that it has, what do we do about making a CDFI like a 18-month process or a 12-month process and not a labyrinth that has to be navigated?

Mr. KURTZ. The CDFIs are managed at the Treasury Department so I am not really able to speak to that issue.

Senator SCHATZ. Is there anyone who can speak to this issue?

[No audible response.]

Senator SCHATZ. Let me do it this way, Mr. Kurtz. This is the problem. Somebody comes to the Federal Government and says, your housing, so help me do housing. Then you say, well, I do this portion of housing and you have to go talk to this other agency. And you have to talk to another part of the agency that I am in charge of, and on and on. Especially when you are in the development business, you have to deal with a bunch of stuff on the private sector side, county approvals and everything else, then they end up sort of stuck not even knowing who they are supposed to talk to first.

Mr. Kurtz, can you help us by reducing to writing a flowchart on how all of this is supposed to work? I am going to ask you to do it. You can do it with BIA or whomever.

But it seems to me that we should not be satisfied with "that is Treasury." I get that is Treasury. I understand how the government works. But the question becomes how do we make this manageable for someone whose full-time job is not to become a CDFI. You just got just passed a note. Is it useful information to all of us?

Mr. KURTZ. I hope so. We are happy to increase the participation of CDFIs in the 184 program. We would love to do that. The creation of CDFI, I am happy to talk to the Treasury Department to have a better understanding about how that works and see if there are ways we can assist in increasing the CDFIs in tribal lands.

Senator SCHATZ. Governor, was there a document, say a one-page document that says here is your punchlist, who you have to talk to and in what order?

Mr. ZUNI. No. It took quite a while to get it through.

Senator SCHATZ. Can we work together between our Federal agencies and develop a one-page punchlist of here is what you need to do to become a CDFI?

Mr. KURTZ. Absolutely. I would have to talk to Treasury about that.

Senator SCHATZ. The other question I have, and I didn't quite get the answer following up on Vice Chairman Udall's question, are private lenders leaving the market?

Mr. KURTZ. I think we are seeing generally there have been less 184 loans over the last few years. But as a proportion, we are seeing an increase in the trust land loans taking place.

Senator SCHATZ. Okay. Can we get some fidelity on that data, how it all breaks down?

Mr. KURTZ. Sure.

Senator SCHATZ. I think the other question is, if there are major shifts in what is happening in the lending market, not just the sort of raw data on, it used to be 40 percent private lenders and now it is 32 percent, but why? Also, whether we should be concerned because if the needs are being met, I don't care whether it is a CDFI or some other way to get the capital into the community. But the question I have is what exactly is happening with private lending? Is it problematical enough to rise to the level of public policy, or is it just sort of the vagaries of the market?

Can you get back to us on both what the data shows and then what, if anything, we need to do about it?

Mr. KURTZ. Absolutely.

Senator SCHATZ. Thank you.

The CHAIRMAN. Why did Wells Fargo pull out of the 184 program? They were one of the larger participants.

Mr. KURTZ. I would have to get back to you on that, sir, on the details.

The CHAIRMAN. Senator Daines.

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

Senator DAINES. Thank you, Mr. Chairman.

It is an honor to have Council Member Nate Mount with us here today. It is always nice to have another Montanan. Welcome to Washington. It is great to see a friendly face, another Montana face here in Washington.

I read your testimony and I have heard firsthand about Ft. Belknap's struggles with housing. I applaud the direction the tribe is taking, to think about how we can move to greater homeownership. It is an important step forward and you have my full support.

I have been active in leading the digitization of land records, which I know can speed up the loan process but, as we all know, there is a whole lot more that we can do.

Council Member Mount, thank you for coming here today to speak about the housing issues facing Indian Country and for your efforts in providing a most fundamental need. That is hope.

My first question is for you. Could you detail the issues, some of the problems you face, and how we can and how we need to be more helpful to assist homeownership for Ft. Belknap and also for other Montana tribes?

Mr. MOUNT. Yes, thank you, Senator Daines.

The biggest problem that I highlight in my testimony is the TSR process. That was one of the bigger problems. Solving that would include your providing oversight, Indian Affairs providing oversight. I know this isn't the Appropriations Committee, but you can provide oversight and also promote the appropriations. We need that. We need to be able to digitize our records so that we can have accurate information for potential homeownership.

The other main issue was not really an issue but it was the proposition of a priority deployment mechanism. I don't know if you recall that in my testimony. It would basically allow the tribes to designate housing areas, notify the HUD Secretary and then thereafter BIA, the Bureau, would get the TSRs done within a 90-day process period.

Senator DAINES. You brought up the 90-day process, three months. I have a question for Director LaCounte.

These housing difficulties are well known by tribes across Montana. We just heard from Council Member Mount from Ft. Belknap who spoke about the struggles they face, some of the inefficiencies in working with the BIA.

He talked about the challenges. My question for you is, how is BIA making this easier for tribes like Ft. Belknap and others in Montana to access needed resources for homeownership? Because at the end of the day, we are in the customer service business. That is a customer. We are responsible to provide customer service.

So if we think about the tribe as a customer, and you are in the business of providing customer service in the BIA, how can we help?

Mr. LACOUNTE. First off, a TSR is a title status report. To hear 90 days, there is no 90-day timeframe. I ran that Land Titles and Records Office. I gave them three days to put a title status report out. I think HUD and others have confused the tribes with that issue. I think it is oftentimes the lease itself. It is not the title status report.

Better communication, we can do that. But this is our priority, and it was my priority when I ran the Land Titles and Records Office in Billings, Montana. I am surprised to hear the testimony I am hearing today. I am going to get on the phone when I get out of here and say what the heck happened. Because when I left it was running quite well.

Senator DAINES. Well, any help you can provide, if you have a stove piped organization, whether it is HUD or BIA, we need help. The last thing is a customer, Ft. Belknap being a customer, they do not want to hear, well, it is an internal problem here with the

bureaucracy. So your leadership to help sort that out, they do not need to hear excuses, but need to see results on this, would be most appreciated.

Mr. LACOUNTE. Right. I am going to look into that one. I take that one personally.

Senator DAINES. Thank you.

If we can take this from three months to three days, I think Council Member Mount might even buy you a dinner somewhere.

Mr. LACOUNTE. I can't take it.

[Laughter.]

Senator DAINES. Just checking on the ethics there. Good work.

I have one last question. Ft. Belknap established the Island Mountain Development Group as the economic arm for the tribe. Island Mountain has done some admirable things to bring economic opportunity to the tribe and the surrounding areas and create jobs. It is a great story.

They have had experience, they being Island Mountain, with difficulties with Indian housing loans. They know this process can take over two years to complete. I came from the private sector, where the Federal Government could probably take a few lessons from, where efficiency and accountability is demanded and expected. In the private sector, housing loans typically are three months to complete. We are seeing two years in some cases here in Indian Country.

Director LaCounte, the Federal Government takes two years to complete the home loan process. The private sector, three months. What actionable steps can be taken to align the outcomes with the Federal process here with what we see in the private sector? How do we take it from two years to 90 days?

I am not talking about the first issue, where we need to go from 90 days to three days. I am talking about the whole home loan process taking up to two years. You can help us on that one too.

Mr. LACOUNTE. I will do what I can. What I am hearing here today, is, he said it politely. I will be more direct and to the point. There are a whole lot of lending institutions that don't want to loan money on reservations or to Indian people. They stall, delay. They do not provide us what we need and sometimes they just go away.

I have a great example on Ft. Belknap. The former president of the Ft. Belknap Indian Community, the last one, not President Werk but President Azure, went to USAA, who proudly serves veterans, at least that is what their TV ads tell us. President Azure is retired military with a pension. He had called me, I called him a friend. He called me a couple years ago and said, would you be a reference for me. I am having a difficult time getting a loan from USAA, who supports veterans.

Well, he is the President of the Ft. Belknap Indian Community, he is a veteran on a pension and they wanted nothing to do with him. He never got a loan from them. I am proud to say he is now my superintendent there, and hopefully he will try to get a loan again. That is the reality we live with.

I will do anything I can to reduce that process, but there are a whole lot of people who do not want to loan money out there. I will say that on the record.

Senator DAINES. Thank you for your candor. If we just keep circling the airport and not talk about what is really going on, we are not going to land the plane. We need to get to the bottom of this because what the tribe is doing in Ft. Belknap is moving tribal members through to homeownership. I think that is a critical part of continuing to move people up through the American dream and into a path to prosperity.

It starts many times with homeownership. As Milton Friedman once said, and I told the tribe this last time they were in my office, Milton Friedman once said, nobody washes a rental car. Home ownership is very important. Thank you.

The CHAIRMAN. Senator Smith.

STATEMENT OF HON. TINA SMITH,
U.S. SENATOR FROM MINNESOTA

Senator SMITH. Thank you, Mr. Chair and Vice Chair Udall.

I want to thank all of you for being here. I really very much appreciate it, for your testimony and your work to figure out what we can do to remove barriers to homeownership amongst Native communities.

I would like to especially welcome Patrice Kunesh for being here today to share the great work that is being done at the Center for Indian Country Development at the Minneapolis Fed. It is wonderful to see you, and also the sister of my friend, Mary Kunesh Podein, who is a Minnesota State legislator doing amazing work with colleagues in Minnesota on missing and murdered indigenous women, which is something many of us on this Committee have been working on as well.

Thank you so much for being here. We are so lucky to have you as a resource in Minnesota.

My office has been doing a series of meetings and listening sessions all over Minnesota on the question of shortages of housing across the board. We have had two meetings specifically focused on the issues on Native-specific challenges with housing and security and homeownership. Everywhere I go, people tell me the same thing, which is what we all know as humans, if you don't have a safe, affordable place to live, nothing else in your life works. It is just really foundational.

A lot of the conversations that I have had with tribal leaders touch on this issue we have been talking about today around how we can make use of the HUD Section 184 program, especially on trust lands. This program is meant to encourage homeownership on tribal lands, but we just know it is not working as well for families living on trust land.

Here is an example. The Minnesota Chippewa Tribe Finance Corporation is a lender in my State and has made over $10 million in HUD 184 loans since 2006. But they have been hesitant to use the program for properties that are on trust land because they face such long delays in getting the certificates of guarantee, which is what we have been talking about.

They say if these delays were not such an issue, they could make 30 percent more loans than they already do. Let me just ask you, Mr. LaCounte, what do you think is causing these delays?

Mr. LACOUNTE. Oftentimes, I would guess they are looking at leasehold mortgages. Oftentimes, you have to carve out a small piece of an existing tract to identify the boundaries that are being held under this leasehold.

Senator SMITH. Kind of the complexity of trying to establish?

Mr. LACOUNTE. You are basically establishing a tract within a tract which is going to require a survey. In your fine State, you can only survey certain months of the year. I would guess that is the majority of the holdup, because we recently opened a title office specific to the Midwest region which is centered out of Minneapolis. That title office is in Ashland, Wisconsin. That is all they do is serve that region. My guess it is probably that.

Senator SMITH. It is really around kind of the complexity of it.

Mr. LACOUNTE. Correct.

Senator SMITH. Ms. Kunesh, what would be your perspective on this? I would love to know what your research has told us about what is causing these delays, and what we could do about it.

Ms. KUNESH. What we have heard from the field, both from the lenders and from BIA, is that there are about 83 touch points for every single TSR. It involves multiple program offices from the Bureau of Indian Affairs.

We have included a graph of the BIA TSR process, but it is actually more complex than that in that it is decentralized into area regional offices. There is a lot of variation between area offices, and there is actually variation within area offices.

So we believe there needs to be centralization and standardization. We heard Mr. LaCounte talk about streamlining the HEARTH Act. I think there needs to be a lending housing czar as well.

Going back to an earlier question, I think the HEARTH Act really is a good model, as well as one-stop mortgage. The ability to have one mortgage form, one process across all the agencies, I think really could support Mr. LaCounte in his work.

Senator SMITH. This would make a big difference in terms of helping solve this overall problem of homeownership if we are able to fix this.

Ms. KUNESH. I definitely think so. We talked a lot about 184. But again, we have 502 from RD and we have the Veterans Affairs Native American Direct. If we had a one-stop mortgage process within the Federal Government that we could support the BIA with its new technology, I think we would get more lenders to the market, I think we would see much more activity on reservation lands, and creating more homeownership, yes.

Senator SMITH. Would you say we are losing lenders?

Ms. KUNESH. I have heard directly from lenders and from folks in the field that lenders are retreating from the 184 program because of the administrative hurdles and processes. It is something that I really do not know that we can appreciate, that if we don't get a second certified TSR within a certain period of time, those lenders are penalized. Sometimes they have to buy back those loans. So they are hesitant to get involved in a program that is uncertain, maybe unstable, and they don't know that is going to support them.

Senator SMITH. Thank you. I know I am out of time but if my colleague will allow me just a moment more?

This is a problem we obviously need to work on and to fix. I appreciate your comments very much. Meanwhile, I have been working with my colleague, Senator Rounds from South Dakota, on a bill that would allow lenders to take advantage of this HUD guarantee and make more loans on trust land. What the bill would do is, it would allow HUD to issue the certificate of guarantee before BIA issues the final title status report. While this is causing a big delay that is creating a lot of problems for people, we could just allow for HUD to issue the certificate ahead of time.

Then what would happen is that lenders would temporarily take on the risk of borrower default, just until the final title status report is issued. In Minnesota, lenders like the Minnesota Chippewa Tribe Finance Corporation agreed that this would make it a lot easier for them to use the HUD 184 program on trust land, and it seems to me, reduce one hurdle that is in the way while we are trying to solve the fundamental problem here.

I just wanted to mention that to my colleagues. I would love to have you take a look at this proposal. Maybe now that I am out of time, I can follow up with the rest of you and see whether, Mr. LaCounte in particular and Mr. Kurtz, how you think we might make this work.

Thank you.

The CHAIRMAN. Senator Cortez Masto.

STATEMENT OF HON. CATHERINE CORTEZ MASTO, U.S. SENATOR FROM NEVADA

Senator CORTEZ MASTO. Thank you. Thank you all for being here.

Let me follow up on what Senator Smith has talked about. In Nevada, our number one issue is housing as well. I have been throughout the State to our urban and rural areas and our tribal communities talking about housing. Council Member Mount, I think you said, is the number one issue you are seeing is housing as well.

Like my colleague from Minnesota, we are trying to address this issue and what we can do at the Federal level to make it pencil out. So we are building more housing and affordable housing.

Let me talk about one area, though, which is manufactured housing. I am curious. First of all, I am going to open this up. Let me ask just the panel in general who are willing to speak to this, the quality of manufactured housing, is it different today than what it was of past? I have heard concerns about the quality of manufactured housing is not worth investing in, or taking out that loan, and bringing it into our communities. But I also know that it has changed over the years. There is an opportunity now to really find some good quality manufactured housing that can come into our communities and address our housing concerns.

Can somebody address the quality issue? Is there a quality issue with manufactured housing? Ms. Kunesh?

Ms. KUNESH. If I may, Senator, we have studied manufactured housing in Indian Country. There are very high standards for man-

ufactured or modular, factory-built homes. So I don't believe it is an issue of quality.

We do have some very old units in Indian Country. I think those are much fewer now. But the opportunity to create homeownership through modular homes is actually quite exciting. And it is not a quality issue. What we find oftentimes it is access to the market. We have found in our research, through HMDA research that of all Native American applications for home loans, 70 percent of those loans are for manufactured housing.

We have a graph in our written testimony that shows both the application as well as the denial rates. Seventy percent of those applications also are denied. We find that it is a captive market. Only two lenders represent the vast majority, they are also are manufacturers of homes. So in terms of the high price of loans on reservation, we see that manufactured housing accounts for 35 percent of that high interest rate. It is quite substantial.

Senator CORTEZ MASTO. Thank you, because you are leading right into my next question. I think there is an opportunity for manufactured housing. I thought the report you put together, you just identified it, has me concerned. Not only is it a captive market, but I am concerned about steering, quite frankly. What I have seen is, there was an article in the Seattle Times in 2015 that reported that a Clayton Homes salesperson told a Navajo woman shopping for a manufactured home that Vanderbilt was the only lender that finances on her tribal land. That was not true.

I do have a concern that what we are seeing more of is this type of predatory opportunities occurring on tribal land. The article that I was referring to is part of a series of articles on predatory manufactured housing in the Seattle Times from 2015 to 2016. They found that Native Americans were targeted by steering practices by manufactured homes sales people. That was before the CFPB, which is the Consumer Financial Protection Bureau, banned the practice. However, Congress reversed the prohibition when it passed S. 2155.

That is my concern, is that now we are going to go back to the days of steering and more of this happening in our communities. I think it is incumbent upon all of us to really highlight what is going on and demand that the prohibition is put in place, because we are seeing what is happening.

So I guess for purposes of Mr. LaCounte and Mr. Kurtz, do you have any concerns? Is your data telling you that what you are seeing, or any type of steering or activity when it comes to manufactured homes in our tribal communities?

Mr. KURTZ. I have not seen anything about steering with manufactured home loans. But I will say to the quality issue, however, you can almost get better built than stick built with manufactured homes. We actually had an expo last year about innovative housing methods on the Mall. I believe we are going to have it again this year. We will be sure you get an invite to seeing some of these innovative manufactured housing processes.

Senator CORTEZ MASTO. There is an opportunity here.

Mr. KURTZ. Yes.

Senator CORTEZ MASTO. Mr. LaCounte, do you see any type of steering? Are you concerned? Is this on your radar at all?

Mr. LACOUNTE. My concern would be that there are so few lenders out there that in certain cases, you would only have access to one for any given land base. That would be my concern more so than anything. Like I said earlier, there are a lot of people who are very reluctant to loan money in Indian Country to Indian people on trust lands, on restricted lands.

Senator CORTEZ MASTO. Ms. Kunesh, what are you seeing? Are you seeing that? Is there any concern about steering or any type of activity like that, taking advantage?

Ms. KUNESH. I think the data show that there is some concern, definitely. We recently published a paper, and my colleague, Richard Todd, really looked at race and location. We looked at manufactured housing specifically.

But to the question of who is lending, we are finding that Native CDFIs are actually starting to look at the manufactured housing market as well, really most importantly, to give their constituents, their borrowers, an option. Sadly, it is just not well known.

If someone is really direly needing a home and there is a manufactured home available, it sounds very enticing. They will go the quick route rather than the longer route. So I do think perhaps Native CDFIs also have a very important role in this market.

Senator CORTEZ MASTO. I have one final follow up.

Ms. Kunesh, you talked about HMDA data.

Ms. KUNESH. Yes.

Senator CORTEZ MASTO. Because that was really important for you to gather the information you did in your report.

Ms. KUNESH. Yes.

Senator CORTEZ MASTO. I have concerns that really, the Dodd-Frank Wall Street Reform and Consumer Protection Act actually required that lenders report 22 additional data points. But that has since changed, again going back to the legislation that I just talked about. That is no longer the case.

Ms. KUNESH. Right.

Senator CORTEZ MASTO. Without access to that information, is that having a negative impact on the information you can gather to determine what is happening, whether the steering is going on, whether there are predatory practices, or whether there is discrimination? I am curious. Or do you have access to that data?

Ms. KUNESH. We do have access to HMDA. However, it seems that the current HMDA data captures only about 80 percent of mortgages in rural areas. Nevada is the most rural State in the Nation. So we don't know exactly what is going on, for example, in these large territories, these large regions.

But it can get even lower than 60 percent or even 30 percent when we talk about Indian Country. Indian Country is largely invisible in the data. We are often called Asterisk Nation because we don't appear to merit a note in terms of mortgage lending or in terms of demographics. We know a lot about disparities, but we don't know the real contextual details.

So HMDA is very, very important, I would say vitally important, to really understanding who is lending, where they are lending, who is not lending, and then to dig down deep to why they are not lending.

Senator CORTEZ MASTO. Thank you. Let me say that is why I introduced the Home Loan Quality Transparency Act. I think we need to ensure that that HMDA data, all of that data, is made available, so that we can identify areas to potentially prevent any type of predatory lending or discrimination. But I identify areas that we need to focus on when it comes to housing needs across this Country, including in our rural and tribal communities.

Thank you.

The CHAIRMAN. Mr. Kurtz, what are the lending institutions that are lending in Indian Country like with the 184 program? Both Wells Fargo and BofA no longer are doing it. Who is?

Mr. KURTZ. Smaller banks, but I will have to say that we have sort of a number of institutions that are interested in participating in the 184 program. We hope that the new regulations that we are in the process of working on will expedite and allow them to join the program.

The CHAIRMAN. Director LaCounte, Section 3 of the Helping Expedite and Advance Responsible Tribal Ownership Act of 2012, the HEARTH Act, requires the BIA to conduct a study regarding the history and experience of Indian tribes that have chosen to assume responsibilities for operating the Indian Land Title and Records Office functions from the BIA. What is the status of the report? When can we expect it?

Mr. LACOUNTE. I do not know. I will get some direction there. I will get back to the Committee.

The CHAIRMAN. Okay. Thank you.

Vice Chairman.

Senator UDALL. Thank you, Mr. Chairman.

Mr. Kurtz, New Mexico is home to 19 pueblos. Traditional pueblo homes are adobe and can be over 100 years old. They often do not have running water or plumbing. But families continue to use these residences for ceremonial feast day gatherings or for other cultural purposes. So it is not unusual that many pueblo families have an additional primary place of residence that can accommodate 21st century living on the reservation.

Native CDFIs, like Tiwa, understand this unique New Mexican reality. I would like to know what HUD is doing to work with the pueblos on this issue. What is HUD doing to ensure that the Section 184 program works for pueblo homeowners who want to own and occupy a modern home on their reservation while continuing to own and maintain their traditional pueblo residences?

Mr. LACOUNTE. First of all, I saw some of these homes just a few weeks ago in your Pueblo. They are really fascinating.

Senator UDALL. In Isleta.

Mr. LACOUNTE. Yes, in Isleta.

We do have the Indian Housing Block Grant Program as well as the Indian Community Development Block Grant Program that can provide funds to rehab these homes. But there are some statutory requirements about the 184 program in what the homes need to have, like running water and electricity.

Senator UDALL. You will work with us on that, to make sure that works for these situations?

Mr. LACOUNTE. I would be happy to get back to you.

Senator UDALL. Governor Zuni, this is a serious issue, is it not?

Mr. ZUNI. Yes, it is because like I stated one time some people aren't qualified to have two loans through the HUD Program. Traditionally, if you do have a home, a new housing development, and they are appointed for a position, then they don't qualify for a traditional home. It is very hard on them.

The one thing that I stated, we don't want to lose our traditions and our customs. We have to maintain them as much as we can.

Senator UDALL. Thank you.

Mr. Kurtz, the Native American Housing Assistance and Self Determination Act, or NAHASDA, is a critically important program for addressing the housing needs of Indian Country, which for many tribal communities is substantial. When compared with the national average, tribal households are three times more likely to live in an overcrowded house, and eleven times more likely to live in a house that has inadequate plumbing.

NAHASDA's authorization expired in 2013. Unfortunately, we have been unable to reauthorize this Federal law because some members object to including Native Hawaiians, for misguided reasons, although Native Hawaiians are already included in NAHASDA.

I have introduced legislation and amendments to reauthorize NAHASDA so tribes can have budget certainty and clarity that the Federal Government is upholding its trust and treaty responsibilities to provide safe and suitable housing for tribes. But my efforts have failed largely due to the aforementioned Native Hawaiian issue.

Now, I would like to get the Administration's position on this issue. Do you agree that NAHASDA should be reauthorized to include all Native communities that currently benefit from its Federal housing programs?

Mr. KURTZ. We would support the reauthorization of NAHASDA in whatever form we receive it from Congress.

Senator UDALL. But my question is a little more specific. You accept all of the folks that are in NAHASDA now and all the tribes that are in NAHASDA now?

Mr. KURTZ. We support the reauthorization of NAHASDA.

Senator UDALL. Okay. Thank you very much.

Thanks, Mr. Chairman. Thanks to all the Senators who came today and participated.

The CHAIRMAN. With that, I want to again thank the witnesses for their testimony. The hearing record will be open for two weeks.

With that, again, thank you and we are adjourned.

[Whereupon, at 4:21 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF TERRY BROCKIE, MEMBER, GROS VENTRE TRIBE OF FORT BELKNAP INDIAN COMMUNITY (FBIC); CEO, ISLAND MOUNTAIN DEVELOPMENT GROUP (IMDG)

My name is Terry Brockie. I am an enrolled member of the Gros Ventre Tribe of the Fort Belknap Indian Community (FBIC) in north-central Montana, and I am the Chief Executive Officer of Island Mountain Development Group, the economic development arm of FBIC. I first want to commend the intent and initiative of the Senate Committee on Indian Affairs to address the lack of home ownership that exists by Tribal Members.

I would likely be considered affluent as compared to the overall Tribal membership, yet I too am only two generations removed from poverty. I myself obtained my own home financing through the HUD–184 program, and it was a terrible experience.

I submit this testimony in the hope that other Tribal members across Indian Country can utilize this important program for Tribes and not experience my frustration and significant delays.

The Fort Belknap Indian Community (FBIC)

The Fort Belknap Indian Reservation is homeland to the Gros Ventre (Aaniiih) and the Assiniboine (Nakoda) Tribes. The Fort Belknap Indian Reservation is geographically isolated in Montana, located forty miles south of the Canadian border and twenty miles north of the Missouri River. The Fort Belknap Indian Reservation encompasses an area consisting of 675,147 acres. The main industry is agriculture, consisting of small cattle ranches, raising alfalfa hay for feed and larger dry land farms. Fort Belknap has a tribal membership of 8,000 enrolled members, with annual median income of less than $12,000.

Problems With Accessing Housing & Financing In Montana

In Montana, Native Americans Have The Most Significant Housing Crisis

A 2013 report sponsored by the National American Indian Housing Council found that 40 percent of on-reservation housing in the United States is considered substandard, compared with 6 percent of all U.S. housing outside Indian Country.

Nearly one-third of reservation homes are overcrowded. A 2017 report by the YMCA Missoula titled Montana Racial Equity Report (*https://ywcaofmissoula.org/wp-content/uploads/2017-Montana-Racial-Equity-Report-Full.pdf*) elaborated specifically on Montana:

Housing Discrimination in Montana:

- In 2003, the U.S. Department of Housing and Urban Development (HUD) conducted a study in Montana, Minnesota, and New Mexico on housing discrimination. HUD found that Native Americans are discriminated against more often than any other ethnic minority in renting housing.
- In Montana, Native American renters experienced consistent adverse treatment comparable to White renters 28.6 percent of the time.
- While the HUD investigation was conducted in 2003, this issue of rental discrimination has not gone away. In 2014, the Montana Human Rights Commission received fifty complaints of housing discrimination against Native Americans on the basis of race. Other complaints of racial discrimination included 37 from African Americans and none from White Americans.

Lack of Access to Private Credit/Mortgages Off-Reservation in Montana:

- In Montana, American Indians are 8–10 percent more likely to have a mortgage application denied than non-American Indians with the same or similar credit, and in general, minority applicants are more likely to have loan applications denied than White applicants.

Problems With Accessing Housing & Financing On Ft. Belknap

Historical Housing Issues on Ft. Belknap

The norm on my reservation is a non-existent housing market. On my reservation, new home ownership has been almost non-existent (almost no new homes in 25 years) due to a lack of access to capital on Trust Lands, among other issues. Most forms of historical home ownership on our reservation have been in the form of HUD mutual-help and tax-credit ownership. If for some reason and in rare circumstances, an individual Tribal member has collateral, they may be eligible for a conventional mortgage. I know of one individual, who is married to an enrolled Tribal member, that utilized a substantial herd of cattle as collateral to obtain credit for their home.

Because of the lack of a housing market, our tribal membership has a lack of knowledge about a conventional home mortgage process (e.g., the importance of credit building, credit score, debt-to-income ratio, etc.). In fact, the Tribal membership has been conditioned to only utilize a designated Tribal housing entity, thus creating a dependence on federal housing programs and funds.

Diversification in the scope of financial products and delivery of those products is necessary to the autonomy for Tribes to utilize the home mortgage process through CDFIs, etc.

It is important to allow Tribal membership to build credit, equity, and have a home that appreciates rather than depreciates in value. Because of the non-existent home market and ignorance about the home mortgage process, perceptions are often skewed as to what the overall value of home ownership brings for the financial health to the individual, family, and community. The idea of a 30-year home mortgage, fixed interest rate, and the six-figure price often associated with the purchase of a home is often intimidating to a Tribal member that may be one generation removed from poverty.

Shifting Income Demographics & Increased Demand for Middle Class Housing

During this past generation, there have been many changes that include growth in tribal economies (like Ft. Belknap the past 7 years) and a new variance in borrower demographics within reservations. As such, I strongly feel that policy makers should reward tribal members seeking genuine independent homeownership, outside of the federal programs that foster a more dependent mindset. Tribal members need options like all Americans.

Our tribal nation has historically struggled with 80 percent unemployment. IMDG now employs almost 200 full-time employees, and we are growing. We recently had two job openings and had approximately 40–80 job applicants for each opening. In the southern part of the reservation where our headquarters are located, we have reduced public assistance by 48 percent.

As our employees thrive and grow, they enter a new middle class for our community and are ready for home ownership. Yet we have no housing inventory to offer them. In order to buy a home, most have to live and commute 60 or more miles away from our reservation. In addition, for the handful of employees we would like to recruit from other locations, the lack of housing is a significant deterrent to working for us.

My Personal Experience with HUD 184 Program—23 Times Slower Than Private Sector

I am only aware of two other Tribal members, besides myself, on the Fort Belknap Indian Reservation who have completed the private loan process to secure a home. I began the Section 184 process on July 2nd, 2014 and signed the final document (to the best of my recollection) on May 10th, 2016. The process took me 23 months to secure my home through the HUD Section 184 Home Buyer Program and live on my reservation.

Broken TSR Process

In my experience, the certified Title Status Report (TSR) process is dysfunctional and remains the BIGGEST problem in the entire home application process. For the Tribal lease that I had approved through my Tribal Council, it took over 12 months to secure a certified TSR from the BIA for my home application. After much work and clarification of the lease and home loan process had occurred, the local BIA then submitted my home ownership application to the Regional BIA office for title review and recording.

The single biggest impediment to the successful use and implementation of the HUD 184 program is the slow process for BIA/Tribal/HUD approval of the paperwork and approval requirements for trust lands. Specifically, the Title Status Report (TSR) process takes too long to be practically useful. The BIA Rocky Mountain Re-

gion is a substantial impediment in this home approval chain. We are uncertain if it is understaffing, underfunding or lack of experience, but any process that takes approximately 23x longer than a regular private marketplace transaction is clearly broken.

These unwarranted delays are particularly costly in regions like ours where the winters are harsh and the building seasons are very short. Thus, quick timing in coordination with the tight building seasons is essential to creating private housing development on the reservation.

Many provisions in the HUD regulations put deadlines and requirements on the borrower in order to reduce the risk on HUD. However, almost nothing in the regulations put any requirements on HUD or DOI or the Tribe to ensure the process is quick and efficient for the borrower, thus reducing the borrower's and builders' risks.

Additional Government Bureaucracy in a Private Sector Timeline

In addition to the TSR process, there were many other delays in the governmental processes. Most of my home loan application documents required a Tribal chairman's signature as the authorized signer on behalf of a Tribe. I am not sure if this is a CFR, HUD, or is something Tribes have the autonomy to change. Perhaps this could be addressed through the Tribe itself, but nevertheless it was often hard to track down our chairman due to his availability and accountability to 8,000 tribal members. I had one step in my home loan process that sat on the Director of Realty's desk for over 2 months. I had to constantly check on the status of their review of my application.

I was told that I needed EPA forms filled out that required a designation and environmental review if my home was located next to a wetland or coastal plain (there are none at Ft. Belknap). Just finding the proper Tribal official that could certify (which may be non-existent for some Tribes) and sign on the form created another bureaucratic exploration within the Tribal Government. There are many other examples, such as the coastal management form, that the potential homeowner needs to search out the proper individual or program as it relates to forms or proper signatures for the forms. This was a costly and time-consuming process when you are working full-time and have to take personal time off, often to have it wasted because an individual was not there, no one is certified to review, or the Tribe is unsure who an individual should be directed to.

With respect to HUD, my application finally was submitted to the regional HUD office in Denver at the end of the fiscal year and I was told that they had placed a freeze on approval of individual home loan packages in order to perform fiscal year end auditing. They said it would take two weeks. It actually took five to six weeks. In addition to the BIA bureaucratic process that took many months, this additional delay meant that it would be another 8 months until my home mortgage was completed.

HUD Underwriting Rigidity

We recently visited with the Assistant Secretary for Policy Development and Research at HUD and several members of ONAP, and we questioned these representatives on how often underwriting guidelines are reviewed considering changing markets and what data is used to determine policy changes balanced with wise risk management. We were told that the policies have not been updated since the inception of the HUD 184 program in 1992, and there is no transparency in data used for consideration. What was originally considered flexible underwriting is now considered rigid underwriting due to the vast changes in markets and housing applications since 1992. This rigidity limits eligibility with outdated, unsupported restrictions. Tribal members deemed ineligible due to these restrictions may easily qualify with alternative programs offered off of the reservation. The limiting factor is the location of the home—thereby discouraging growth on trust lands in tribal communities. Loans offered through other federal entities undergo regular reconsideration supported by current data. The HUD 184 program underwriting, policies, and processes need significant updating to remain an effective source of financing, and to increase the impact of the program's original intent.

Chronically Underfunded and Under-Resourced

In my opinion, tribal departments (especially in the Plains and Rocky Mountain Regions) are chronically underfunded, under-resourced, and do not have updated leasing practices—all contributing to inefficiencies in the home loan process. Additional funding to enhance Tribal governments for residential housing would be beneficial.

Lack of Appropriate Home Appraisal Process

In addition, with regard to the home appraisal process, the appraiser could not find a single home on my reservation that could be utilized as a comparable home to give value on reservation. This shows the genuine lack of knowledge about the tribal housing market and struggle appraisers have in even looking for reservation based comparable homes.

Contrast with Private Sector—23 Times Slower

In contrast, prior to the purchase of my current home on my reservation, I was going to purchase a home through a conventional home mortgage process off-reservation. That whole process would have taken no more 30–90 days from the beginning of the application process to actual home ownership with my family. In three weeks, I was pre-approved by a financial institution, met with a realtor, searched for a home, selected a home after the negotiation of price, and scheduled the home inspection process. At the time, I was informed it would have been another 2 to 3 weeks to be in the home.

Many individuals who begin the Section 184 Home Buyer Program understandably lose patience in the process due to the substantial bureaucracy and inefficiency of the program, and so do the mortgage providers. Despite qualifying, having all my paperwork completed correctly, and my housing all lined up, it took 23 months to complete my mortgage through the HUD 184 process.

Consequently, and to no one's surprise, there is also a direct correlation to the reduction in the banks that are willing to provide a Section 184 loan package due to these delays. Mortgage lenders told me inasmuch, it is not economically viable for them to participate in lending under HUD 184 because of the federal government's delays.

One mortgage lender shared with me that on average they generally close their mortgages with one (1) month.

Which means it took the CEO of our economic development corporation 23 times longer to obtain a HUD–184 home mortgage on trust land on the Ft. Belknap reservation than in took an average consumer anywhere else in the United States. Twenty-three (23) times longer.

Potential Solutions

In addition to having been thinking about these reforms ourselves for a very long time, we have been meeting with several mortgage providers for their insights and input. Almost twenty years ago, in the 2000s, there were nearly 30 banks and lenders participating in the HUD 184 program, we understand that today that is now in the single digits. When we met with mortgage providers, their recommendations for reform matched with ours below and those included in Ft. Belknap Councilman Mount's oral and written testimony.

TSR Process: Give Tribal Control & Digitization

Perhaps most importantly, federal resources must be made available to update and digitization land records on the reservation. We appreciate the recent language in the Interior appropriations bill regarding digitization, but there needs to be follow up oversight from the Senate Committee on Indian Affairs.

> "The Committee also recognizes increased digitization of Indian land records would increase efficiency within Trust-Real Estate Services. Within the amounts provided, the Committee encourages Trust-Real Estate Services to implement additional digitization of Indian land records to promote Tribal economic development opportunities in Indian Country, including the Fort Belknap Indian Community."
>
> Report No. 116–123 to accompany S. 2580 at p. 57.

Another solution would allow for the Tribes to have more control over the certified TSR process or for any and all parties involved to be able to work with the BIA in a shared data platform. A good example would be for Tribal designated entities to secure access to the BIA's TAAMS system efficiently to obtain any and all available information on the property.

Off of the reservation, a title search is performed and reported in a preliminary title report, and once the loan is perfected, a final title policy recognizing the new mortgage lien(s) is issued within 90 days to support the standard mortgage cycle. Currently, HUD requires the Certified TSR—somewhat equivalent of the final title policy—prior to a Section 184 loan guarantee. The borrower themselves have no control over the lack of efficiency and timeliness; yet the borrower is inadvertently punished when their mortgage documents have expired prior to loan guarantee.

Congressionally Mandated Streamlining

In my experience, there are way too many entities involved in the Section 184 process: individual home buyer, Tribal departments, agency and regional BIA, EPA, HUD, and lending institutions. The overall process needs to be streamlined to give Tribes and tribal designated entities more control and more accountability to the individual homebuyers.

My tribal council recently passed its version of the Hearth Act for Residential Leasing purposes only. When it is approved by the BIA, I believe this will help reduce the multi-layered bureaucratic process to become more manageable to individual homebuyers. However, even this BIA approval process is months behind.

In my experience, there is too much disconnect and blame between the various participating agencies: BIA, HUD, and Tribes. A more simplified, sequential process needs to be created that clearly defines who does what and when, with strict timelines and clear guidelines in place with instruments to hold entities accountable. I feel this is absolutely essential to enable potential homeowners on reservations to have an expedited home buying experience, like a conventional home mortgage process off-reservation.

A federal, top-down mandate is needed to direct all participating federal entities to be consistent across all state and regional levels and to utilize a simplified Section 184 program and other services that are applicable in Indian Country.

A few additional recommendations include:

- Use HUD 184 "Collected Fees" to hire more regional HUD and BIA loan staff
- Have the private banking sector review, edit and streamline the HUD 184 and TSR paperwork process
- Adopt the "Priority Deployment Mechanism" as outlined by Councilman Mount in his oral and written testimony

Conclusion

The federal government's inefficiencies significantly hinder individual tribal member homeownership on reservations and on trust lands and must be addressed by Congress. The existing multi-layered bureaucratic process encourages an environment in direct contrast to federal fair housing mandates, and in effect, creates a system of unfair housing practices for tribal members on trust lands. Tribal members have no choice but to follow these unclear procedures and have no remedies for costly delays—and, quite often, simply do not obtain a home of their own. The lack of consistency and accountability nullifies the original intent and initiative in offering these programs.

PREPARED STATEMENT OF THE CENTER FOR INDIAN COUNTRY DEVELOPMENT—NATIONAL NATIVE HOMEOWNERSHIP COALITION

DETAILED POLICY CONSIDERATIONS

Improve the Title Status Report processes for lending on trust lands—The U.S. Department of the Interior through the Assistant Secretary of Indian Affairs and the Director of the Bureau of Indian Affairs should establish a standard process for all offices (national, regional, and area offices) to provide timely TSRs on trust lands with clear and concise instructions to lenders and tribes. In addition, definite processes should be established to ensure that the Second Certified TSRs are provided to lenders within 30 days of an initial request. DOI should actively communicate the standard process to lenders and external business partners. BIA should implement a transparent tracking system for the TSR process and providing an escalation process for lenders when TSR standards are unmet, such as a hotline number.

> Improved TSR processes will generate additional lender interest in Indian Country and greatly improve the application process for borrowers on trust land.

Require BIA to examine tribal leasing regulation approval process and approval Provide technical assistance to support tribes in adopting HEARTH Act regulations—Only 40 tribes have adopted some form of HEARTH Act leasing regulations, while 26 tribal applications for residential leasing are pending in the BIA. This low number appears to indicate a problem with tribal adoption and implementation of the HEARTH Act. The backlog also is concerning because the BIA's recent approval record is only two or three tribal regulations per year. The

BIA should perform an assessment to understand why so few tribes are implementing the HEARTH Act.

In addition, funding is needed for technical assistance to support tribal residential leasing programs, including establishing a tribal land recording system and digitization of land records. Recent appropriations prioritizing digitization efforts for the Fort Belknap Indian Community in Montana could present a model process for supporting other tribes' assumption of land and leasing responsibilities.

> Technical assistance could increase tribal uptake of the HEARTH Act leasing regulations, which could facilitate economic development and homeownership opportunities on trust land.

Deploy Native Community Development Institutions as re-lending intermediaries for all federal home loan programs to increase the supply of credit in Indian Country—Congress should permanently authorize the USDA Rural Development, HUD, and the VA to deploy Native CDFIs as re-lenders of those mortgage programs in Indian Country (other Native serving financial institutions as well). All of these agencies have limited staff resources to reach Native borrowers on tribal lands. Native CDFIs have direct and extensive experience operating on tribal lands and they intimately know their communities. In addition, they provide extensive financial and homebuyer education to their clients. Native CDFIs in South Dakota are demonstrating the value of the pilot program by connecting eligible borrowers with the 502 direct loan program, supporting the application process, and servicing the loans.

> Native CDFIs enhance Rural Development's reach into Indian Country, and likewise could similarly extend the reach of the VA NADL and further support the HUD Section 184 loan guarantee program on national scale.

Clarify the foreclosure process and support tribal strategies for risk mitigation involving federal mortgage products in Indian Country—Despite standard provisions in Tribal Leasing Agreements that prescribe tribal courts as the court of competent jurisdiction for purposes of judicial recourse, a misperception among federal agencies and lenders about options for handling delinquent loans associated with leasehold mortgages on trust land has unfairly deprived American Indians and Alaska Natives of critical capital. Language is needed to clarify that the Department of Justice is authorized to pursue foreclosures through tribal courts pursuant to the mortgage agreements between tribes and federal agencies. To the extent federal agencies lack knowledge about tribal court systems, they should be permitted to contract with qualified attorneys to pursue foreclosure actions in tribal courts; currently this is not an option with the HUD 184 Loan Guarantee Program. In addition, federal agencies should recognize and support tribal risk mitigation strategies that alleviate the tensions around jurisdiction and streamline the foreclosure and eviction process.

> Providing lenders with more certainty about their rights to recourse and remedies will increase the supply of credit for transactions involving trust land.

Improve data quality and access to information on loans in Indian Country—Policy makers and program managers need access to current and accurate data to assess the performance of their programs and services. However, high quality, detailed data are not readily available to the public, and most available data are outdated. Access to complete data in a timely manner permits more engagement and better decisionmaking around allocation of scarce resources.

The following are a few specific areas to address:

- HMDA data should identify whether a loan occurred on or off reservation lands and whether the loan occurred on trust land or fee land in either case.
- The loans should indicate the year the tribe opted into the 184 program and the year the off-reservation lands were designated by the tribe.
- HMDA loan records should specifically identify Section 184 loans, and direct loans from government agencies such as the VA and USDA should be reported to HMDA.

> Access to lending data will help identify effective strategies for supporting AIAN borrowers.

Encourage investment in Indian Country through Community Reinvestment Act—The CRA requires depository institutions to meet the credit needs of all segments of their service areas, especially distressed and underserved census tracts (low- and moderate-income communities). Currently, a lender's service area is defined by its physical offices and branches. American Indian reservations rarely have

branches and offices located nearby. Encouraging CRA-related activity on trust lands requires a multi-faceted approach, such as:

- Deem services to low- and moderate-income reservation residents as serving high-need areas regardless of whether locations are part of a lender's service area.
- Place a higher CRA value on lending activity to this population without limitations, which would give these lands additional value for a large lender.

Greater access to capital and credit for Native CDFIs would allow them to expand their successful programs and serve the consumer needs of Native communities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO PATRICE H. KUNESH

Question 1. What can Congress do to alleviate burdens to on-reservation mortgage lending and reverse the downward trend?

Answer. Congress already has created powerful tools to support on-reservation mortgage lending, such as the Department of Housing and Urban Development (HUD) 184 Loan Guarantee program, the Veterans Affairs (VA) Native American Direct Loan program, and the U.S. Department of Agriculture Rural Housing Service 502 direct and guaranteed loan programs. Congress also has enacted the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act to facilitate tribally directed land-use development. These programs, however, lack a standard mortgage process and all mortgages on trust lands must be approved by the Department of the Interior's Bureau of Indian Affairs (BIA), whose unique land titles and records system differs from the industry's processing and recording standards. Thus, despite access to substantial public capital and the potential for significant private lending, these institutional challenges discourage lenders from lending to Native borrowers who reside on their reservation homelands.

What is needed is a coherent and consistent process that lenders, developers, and borrowers can rely upon. This means:

1. Creating a unified mortgage process for federal housing programs, including a uniform mortgage application much like the previous "one-stop" mortgage program, along with a standard cross-agency Memorandum of Agreement that recognizes tribal laws and delineates available remedies.
2. Normalizing the land title processes within the BIA and conforming the title recording system (the Trust Asset and Accounting Management System, or TAAMS) to industry standards (accessibility, accuracy, and accountability).
3. Establishing a standard process for all BIA offices (national, regional, and area offices) to issue timely Title Status Reports (TSRs) on trust lands with clear instructions and accessible support to lenders and tribes. In addition, definite processes should be established to ensure that the Second Certified TSRs are provided to lenders within 30 days of an initial request.
4. Implementing a transparent tracking system for the BIA's TSR process and providing an escalation process for lenders, such as a hotline number, when TSR standards are unmet.
5. Providing funds for technical support to tribes for HEARTH Act programs, including digitization of tribal land records. Recent appropriations prioritizing digitization efforts for the Fort Belknap Indian Community in Montana could present a model process for supporting other tribes' assumption of land and leasing responsibilities.
6. Requiring Indian Housing Authorities and Tribally Designated Housing Entities to be included in HUD's housing counseling program. Currently, the program's regulation, 24 CFR 214.103(a), expressly applies to private or public nonprofit organizations and units of local, county, or state governments, which has been interpreted to exclude tribes from participating in this very meaningful program.

In addition, reauthorization of the *Native American Housing Assistance and Self-Determination Act* (NAHASDA) would allow tribes to build new housing stock, preserve existing housing units, and leverage their NAHASDA dollars for bigger projects. Congress also could allow tribes to use their NAHASDA funds for middle-income households that earn up to 120 percent of area median income (AMI) to reach a broader pool of potential home buyers. This more accurately reflects the higher costs of housing in rural Indian Country communities.

There are additional ways Congress can incentivize lending to Native borrowers on reservation lands and increase the pool of private lenders in the HUD 184 program. These include:

1. Authorizing Native community development financial institutions (CDFIs) (and other Native American financial institutions) as lender intermediaries and servicers of federal home finance programs; and
2. Monitoring agency progress to ensure these institutional reforms are implemented. Congress and this Committee should regularly monitor agency progress and create a national Native homeownership scorecard. That scorecard would annually report the number of mortgage loans issued to Native borrowers on trust and restricted lands, track the BIA's TSR processing timeframes by regional office, and track the approval of tribal leasing regulations under the HEARTH Act. This reporting mechanism would reflect an important accountability consideration, improve the delivery of federal programs and services, and help capture the social and economic impact of increased housing and homeownership on reservation communities.

Question 2. What can the BIA and tribes do to address these issues?

Answer. Both the BIA and tribes have distinctive responsibilities in addressing these issues. In fulfilling the federal government's trust responsibility to Native tribes and people, the BIA is a vital resource to tribes in almost every aspect of economic and community development, including creating an on-reservation housing market to meet the demand for more affordable housing stock. Likewise, in exercising sovereign authority over their lands, tribes are responsible for creating conditions conducive to reservation investment and community development. However, the Government Accountability Office (GAO) has recently found that severe underfunding of federal trust obligations has "impeded the efficient deployment of federal programs and services specifically intended to benefit tribes and Native peoples, which in turn has discouraged private investment in Indian Country." [1]

As noted above, I recommend that the BIA use its authority to establish and implement a coherent and consistent process that lenders, developers, and borrowers can rely upon. In addition to these recommendations, BIA should examine its *HEARTH Act tribal leasing regulation review process* and provide technical assistance to support tribes in adopting tribal regulations. Only 40 tribes have adopted some form of HEARTH Act leasing regulations, while 26 tribal applications for residential leasing are pending in the BIA. The backlog is concerning because the BIA's recent approval record is only two or three tribal leasing regulations per year. The BIA should perform an assessment to understand why so few tribes are implementing the HEARTH Act. Overall, the BIA should improve its data quality and provide broader access to information on loans in Indian Country in a timely manner.

In addition, the BIA should do the following:

1. Normalize the land title processes within the BIA and conform the title recording system, TAAMS, to industry standards (accessibility, accuracy, and accountability).
2. Establish a standard process for all BIA offices (national, regional, and area offices) to issue timely Title Status Reports (TSRs) on trust lands with clear instructions and accessible support to lenders and tribes. In addition, definite processes should be established to ensure that the Second Certified TSRs are provided to lenders within 30 days of an initial request.
3. Implement a transparent tracking system for the BIA's TSR process and provide an escalation process, such as a hotline number, for lenders when TSR standards are unmet.

Tribes also have an important role in creating conditions conducive to residential lending and exercising an expansive governance role in promoting investment within their territories. Tribes have sovereign authority over their lands, but they do not have control over the federal processes to put their lands to good and productive use. Nevertheless, one of the most demonstrable ways tribes exercise sovereignty is

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[1] Funding these federal trust obligations is addressed in a recent report from the GAO, *Resource Constraints and Management Weaknesses Can Limit Federal Program Delivery to Tribes*, GAO–20- 270T. Nov 19, 2019. Accessible at *https://www.gao.gov/products/GAO-20-270T*. This report adds to the GAO's report published earlier this year, *Improving Federal Management of Programs that Serve Tribes and Their Members, Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, GAO-19-157SP. Mar 6, 2019. Accessible at *https://www.gao.gov/products/GAO-19-157sp.*

through their judicial systems. This includes ensuring the enforceability of contracts through laws that establish rights, remedies, and recourse options in tribal courts, and establishing a secured transactions law along with a lien-filing system.

Tribes that have succeeded in expanding homeownership opportunities for tribal citizens have pursued self-governance over residential leasing by:

1. Adopting HEARTH Act regulations,

2. Assuming BIA Realty and Land Titles and Records Office functions through 638 contracts or compacts, and

3. Promoting community-wide financial education and home buyer readiness. As importantly, tribes should actively pursue relationships with private lenders and help them better understand the unique qualities of Indian Country and support their engagement in lending on trust land. [2]

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO PATRICE H. KUNESH

Question 1. What impact would the reforms that you outlined in your testimony have on the number of additional units built?

Answer. We believe that our proposed reforms could have a significant increase on the number of affordable housing units throughout Indian Country. The number of additional housing units actually achieved (built and preserved), however, will depend on the collective commitment to closing the housing gap for Native Americans from federal, state, and tribal governments, as well as private lenders and other stakeholders in Indian Country. Investments in housing directly impact investments in other key areas, such as education and business.

*Question 2.*How long will it take to clear this backlog?

Answer. In 2017, HUD estimated that Indian Country needed 68,000 additional units to alleviate dire overcrowding conditions. We believe that number is on the lower bound of what is required to meet the full spectrum of housing needs and strong demand for homeownership. In addition, the Native population is young and a fast-growing demographic, such that housing needs are increasing as well.

The Center for Indian Country Development (CICD) at the Federal Reserve Bank of Minneapolis has not researched how long it will take to clear the backlog and close the housing gap in Indian Country, nor is it familiar with studies specifically addressing this question. However, Congress could request such a study to better understand the resources and time required to address the housing need. For example, a goal of building 50,000 units and preserving 5,000 more units across Indian Country within five years would require coordinated federal mortgage programs, streamlined processes, and engaged lenders. A central federal Indian Country housing hub could orchestrate the implementation of such a plan, harmonize federal home loan programs, and support the diverse geographies of Indian Country.

Question 3. How can we improve on the current structure for HUD 184 loan guarantees on tribal trust lands?

Answer. As HUD currently is updating its regulations, it should consider several recommendations from Indian Country. These improvements include: establishing processes compatible with other public and private home finance products and consistent with industry standards (including technology compatibility); creating a streamlined process for participating lenders that absolutely ensures the issuance of Certificates of Guarantee in a timely manner; permitting Native CDFIs to deliver and service HUD loans; and amending the HUD Housing Counseling regulation, 24 CFR 214.103(a), to include tribes and Tribally Designated Housing Entities (TDHE) as entities eligible to participate in HUD housing counseling programs. In addition, the 184 program should be expanded to offer interim financing for new home construction.

Question 4. What impact does having to hold mortgage loans at the primary lender pending Ginnie Mae approval have on the ability of that lender to issue more mortgage loans?

Answer. A functioning, reliable secondary market is necessary to meet the growing housing needs in Indian Country. Holding mortgages as the primary lender limits the amount of capital available to lend and impedes the lender's ability to meet the borrowing needs of the community. In addition, holding a mortgage pending

[2] Jorgensen, Miriam and Hope Nation Consulting, LLC. *Mortgage Lending on South Dakota's Indian Trust Land: Findings from a Survey of Lenders*. South Dakota Native Homeownership Coalition. October 2019.

Ginnie Mae approval creates additional risk and increases the cost of lending in Indian Country. For example, if the BIA fails to issue the final (second) certified TSR, or if HUD is late in issuing its Certificate of Guarantee, Ginnie Mae reclassifies the loan as "defective" and the lender must take the loan back. This process creates more uncertainty, greater risks, and increased costs that effectively can—despite the federal guarantee—discourage lenders from participating in the program and cut off capital to Indian Country.

Question 5. Can you also discuss what steps the private sector could take to improve the ability to make and close mortgage loans on trust lands?

First, the private lending sector must be able to understand the lending system in Indian Country and rely on the rights and remedies delineated in the mortgage documents. To support this goal, the mortgage process for Native borrowers on trust lands must be normalized, using standard forms and consistent processes across federal home loan programs. Lenders also should actively foster relationships with tribal governments, tribal housing authorities, and developers—engaged lenders are more informed, more supportive, and more successful. This insight comes from a recent South Dakota Native Homeownership Coalition survey of lenders who offer mortgages on trust lands in South Dakota, including CDFI loan funds.[3] Lenders indicated general awareness of the HUD 184 program, yet cite borrower credit history as a barrier to lending on trust land. Some lenders pointed to the lack of affordable housing as their reason for low engagement. In addition, some financial institutions were unaware of the remedies available in the event of delinquency and foreclosure of a HUD 184 loan. One bank offered that "instead of complaining, we need to step in and try to understand and work towards understanding."

In addition, the secondary market for mortgage loans is critical to bringing private capital to reservations. Thus, technical and financial support to Native-serving financial institutions in becoming direct Fannie Mae mortgage lenders is needed in order help Indian Country reach the secondary market.

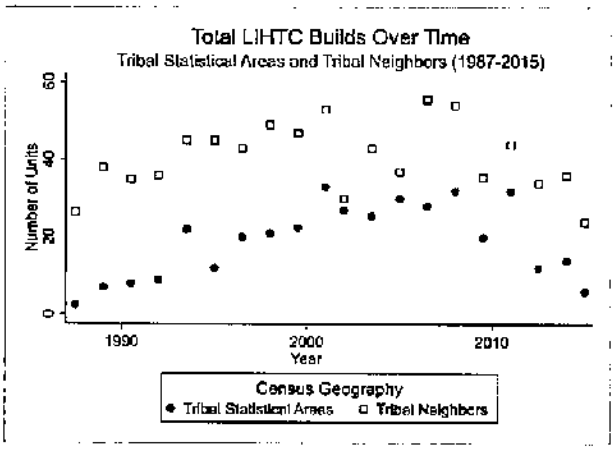
Question 6. What policies would you recommend to incentivize the building of affordable rental housing?

Answer. As with homeownership and commercial development, incentivizing affordable rental development on trust land requires normalizing lending processes on trust lands and coordination among federal programs. The need to incentivize affordable rental construction, however, is not only an Indian Country problem. In the area of Low Income Housing Tax Credits (LIHTCs), recent CICD research[4] shows that Indian Country (Figure 1) is part of a national trend of decreased LIHTC construction since the 2008 financial crisis (Figure 2).

[3] Mortgage Lending on South Dakota's Indian Trust Land: Findings from a Survey of Lenders. South Dakota Native Homeownership Coalition. October 2019.

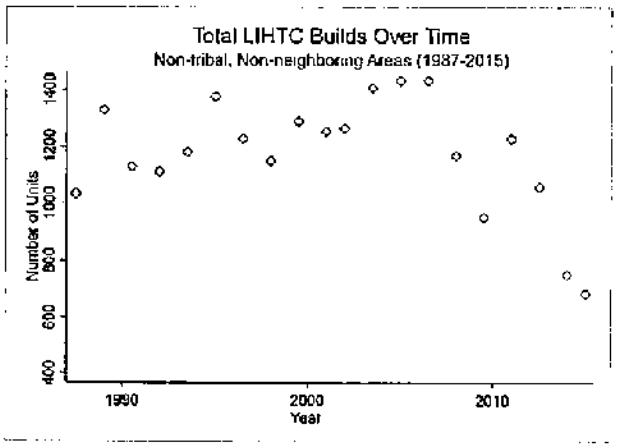
[4] Whaley, Kenneth. "Low Income Housing Tax Credits and Affordable Rentals in Indian Country." CICD Working Paper 2019–07. Forthcoming, December 2019.

Figure 1: LIHTC Development in Tribal Areas Has Fallen Since the Last Recession



Source: Whaley, Kenneth. "Low Income Housing Tax Credits and Affordable Rentals in Indian Country." CICD Working Paper 2019-07. Forthcoming, December 2019.

Figure 2: National LIHTC Development Has Also Declined Since the Last Recession



Source: Whaley, Kenneth. "Low Income Housing Tax Credits and Affordable Rentals in Indian Country." CICD Working Paper 2019-07. Forthcoming, December 2019.

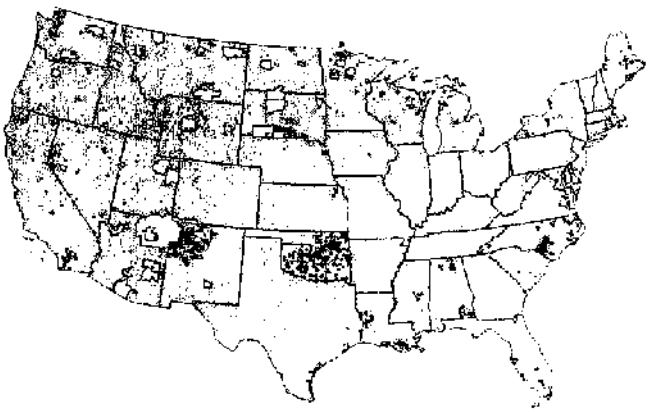
Affordable rental programs must be matched to the community's needs. Many rental projects in Indian Country are single-family developments that are in need of substantial updates to make them safe and habitable. Thus, LIHTC developments that build desirable, multi-use, quality homes could factor into a bold plan to meet Indian Country's housing needs and long-term community vision of homeownership. Furthermore, to realize Indian Country's full potential, one option would be to streamline LIHTC requirements to make lease-to-purchase programs more accessible and successful. Where possible, these projects should be supported with wrap-around services for tenants, including financial and homeownership education.

Question 7. Would you agree that affordable rental housing is important for overall economic growth, part of the necessary infrastructure for the 21st century, and a good way to create jobs in Indian Country?

Answer. Yes. In Indian Country and elsewhere, housing is inextricably entwined with community health and well-being. Much of Indian Country remains in persistent poverty, which means affordable rental housing will be needed for the foreseeable future. Indeed, because Indian Country's housing needs span all income levels, affordable rental housing is a necessary complement to homeownership. Moreover, affordable rental housing can offer the opportunity to build savings and prepare for future homeownership, especially when LIHTC units are converted to owned units.

Figure 3 shows a map of LIHTC housing in Tribal Statistical Areas (TSAs). Many large reservations have relatively few LIHTC projects. Of the 41,000 LIHTC projects reported in 2017, 1.5 percent were in TSAs and 2.8 percent were in statistical areas neighboring TSAs. Of those in tribal areas, 45 percent were in Oklahoma. We suspect that the substantial LIHTC development in Oklahoma is due to the status of the land (prevalence of fee or restricted fee land), as well as population density compared to more rural reservations.

Figure 3. Active LIHTC Rental Complexes in Tribal Statistical Areas as of December 2017



Source: Whaley, Kenneth. "Low Income Housing Tax Credits and Affordable Rentals in Indian Country." CICD Working Paper 2019-07 Forthcoming, December 2019.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO PATRICE H. KUNESH

Question 1. Will the expanded Home Mortgage Disclosure Act (HMDA) data required by Dodd-Frank factor into future reports?

Answer. The Center for Indian Country Development (CICD) plans to continue its research on HMDA data as it relates to mortgage lending to Native borrowers. We already have begun reviewing the recently released 2018 HMDA data. We believe continued collection of the new HMDA demographic variables is valuable to understanding the real lending landscape in Indian Country and the rest of the U.S.

Question 2. What future directions will the CICD explore in mortgage financing for Native Americans?

Answer. The CICD is engaged in an array of research projects focused on lending systems, credit scores, and Native American financing institutions. We plan to go further with our HMDA analysis using the expanded 2018 HMDA data. For example, in previous HMDA reports, the lack of credit score information seriously impeded our understanding of the links among creditworthiness, lending, and costs. The expanded HMDA 2018 data no longer censor the nonhigh- priced interest rates (rates less than 1.5 points above the Average Prime Offer Rate), which will provide a better picture of the overall lending situation in Indian Country. We now plan to

examine how HMDA's credit risk data impact our findings on the higher price of mortgage finance.

Question 3. What policy recommendations for the manufactured-housing market should we consider to lower the cost of mortgages for home buyers, especially Native Americans?

Answer. Native American borrowers on trust lands tend to prefer manufactured homes (likely a reflection of the land status) and are highly vulnerable to high-priced loans for manufactured homes. The pricing of manufactured-home loans varies widely depending on the region of the country, location on or off reservation trust lands, and the availability of diverse financing sources. However, as noted in our testimony, Native borrowers pay considerably more for home loans located on reservation trust lands.

The manufactured-housing industry is a highly concentrated market of manufacturers and lenders. This close relationship requires significant institutional changes beyond our purview. However, we understand the value and importance of educating Native communities about these concerns and have included a chapter on manufactured housing in the CICD's *Tribal Leaders Handbook on Homeownership*. Such information should be more broadly shared and addressed with tribal housing authorities and specifically included in HUD housing counseling programming. Another way to reduce the cost of manufactured homes is to make sure they are included as eligible types of housing in all federal home loan programs, which could offer lower interest rates for those loans.

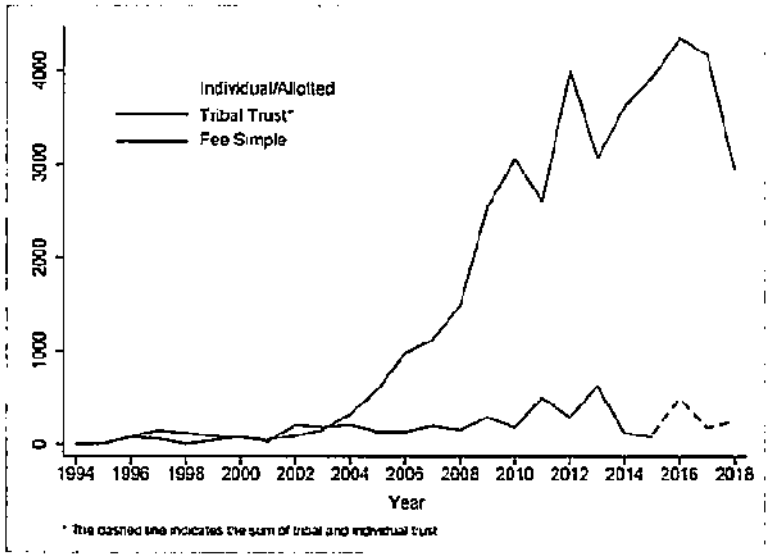
It also is important to recognize that the high price of home loans to Native borrowers could be reduced overall by normalizing the mortgage process on trust lands.

Question 4. Could you elaborate on why many Native American families are unable to access HUD's Section 184 loan guarantee?

Answer. The historical data indicate that Native American families have widely used the HUD Section 184 home loan guarantee program, particularly since 2004. The program has made it possible for thousands of Native people across the country to become homeowners. It also has been instrumental in building wealth and assets in Indian Country, including personal financial management (financial education and credit building). Thus, the HUD 184 loan guarantee program has been critically important for Indian Country economic and community development.

However, the extent to which HUD 184 mortgages are used by Native borrowers mostly on fee land and generally off-reservation indicates a structural issue rather than a financial impediment. See Figure 4. Normalizing trust land lending in the BIA and establishing a cooperative BIA–HUD interagency relationship would shore up the loss of lenders from the program and encourage more private lender participation. It also would ensure that all federal housing programs can reach the populations and places they are designed to serve.

Figure 4. Number of HUD 184 Loans by Type of Land (1995–2018)



Source: CICD staff calculations based on data provided by HUD, October 2019.

Standard mortgage forms and efficient processes would go a long way to curb the exit of private lenders from the HUD 184 program, as would modernizing HUD's digital mortgage infrastructure (which is incompatible with some private lending systems). Moreover, to reach more Native borrowers on trust lands, HUD should authorize and train Native CDFIs as Section 184 lenders. Tribes can do their part by taking a more active role in ensuring that tribal legal and judicial systems fully support mortgage lending within their jurisdictions, and building relationships directly with lenders would be helpful. [5]

Question 5. Why are Native American and Alaska Native-reservation loans notably less likely to be Federal Housing Administration (FHA)-insured, VA-guaranteed, or Rural Housing Service-guaranteed than other loans?

Answer. We are not able to respond fully to the likelihood of reservation-based mortgage lending being outside a federally insured or guaranteed program. For Native borrowers, however, accessibility is not impeded by any legal or financial factor. Thus, potential impediments may be structural issues within the programs. Normalizing trust land lending in the BIA would encourage the increase of private lender participation in these federal programs.

Question 6. Fannie Mae and Freddie Mac have a duty to serve manufactured-home buyers and rural communities. What involvement have Fannie Mae and Freddie Mac had in providing affordable financing for Native American communities?

Answer. Indian Country also is included in Fannie Mae and Freddie Mac's Duty to Serve initiatives. Since its inception, representatives from both Fannie Mae and Freddie Mac have been members of the CICD's National Native Homeownership Coalition. Collectively, our coalition has supported problem-solving and institution-building conversations with tribes and other organizations working in Indian Country on home buyer education, mortgage lending systems, and access to secondary markets.

For example, Fannie Mae currently is working with two Native CDFIs so that they can become Fannie Mae direct mortgage lenders, while also working to connect other Native American financial institutions with the secondary market. Fannie

[5] See footnote 3.

Mae also has extended its lending relationship with four tribal nations, and an three more formal relationships are pending approval of tribal governments. In addition, Fannie Mae has established loan service agreements with four Native lenders. These agreements recognize the value of supporting the success of homeownership at the local level and are essential to well-functioning housing markets in Indian Country. Freddie Mac has supported the South Dakota Native Homeownership Coalition's research and report on *Mortgage Lending on South Dakota's Indian Trust Land: Findings from a Survey of Lenders.*

Question 7. The Federal Home Loan Bank (FHLB) also has an affordable housing mission. What investments in Native American homeownership has the FHLB made? Is there a regional Bank that is a leader in serving Native American home buyers and reservation communities?

Answer. The FHLB of Des Moines (FHLB–DM) has been quite engaged in this area and it would be ideal for all FHLBs with a trust land footprint to develop a similar program. The FHLB–DM's Native American Homeownership Initiative is a readily accessible source of down payment assistance to Native borrowers and the FHLB–DM has continued to increase the amount of funds available to this program. In November 2017, the FHLB–DM issued a $5 million grant to enhance the role of Native CDFIs—proven vehicles for bringing capital and financial education to Native communities—in mortgage lending and preparing home buyers.

The FHLB of Chicago also provides some down payment assistance for trust and restricted lands, and it purchases HUD 184 loans, functioning as a secondary market for the Oneida Nation's Bay Bank in Green Bay, Wisconsin.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO HON. ANDY WERK, JR.

Question 1. What is the biggest obstacle to homeownership and affordable housing?

Answer. Unfortunately, the Fort Belknap Indian Community is in an affordable housing crisis with multiple major obstacles to homeownership and affordable housing for our Tribal citizens. For example, our homeland unemployment rate has averaged 70 percent, the median household income is low at $12,000 per year, and we have overcrowded homes with an average of 13–18 residents per single home. Additionally, our current housing wait list has more than 150 families waiting for any housing opportunity and the average wait-time for that list is 3.4 years.

The Fort Belknap Indian Community also has limited infrastructure available to support homeownership and affordable housing. Even with the older and limited housing units that serve the Reservation (see response to question 3, below), existing infrastructure appears to be at capacity in the few developed areas in the Community. Further, significant environmental issues (e.g., old trash dumpsite) must be addressed before any development can be pursued and the limited existing housing is not maintained well due to limited funding for tribal environmental oversight.

In addition to the conditions on the ground, a substantial impediment to the successful use and implementation of federal housing programs (like the HUD Section 184 program) as well as any private investment in Indian housing, is the unnecessarily slow and unduly burdensome process for BIA/Tribal/HUD approval of submitted paperwork and approval requirements for a home loan on trust lands (as just one example., almost 2 years for the CEO of our economic development corporation, a highly educated and sophisticated borrower). Without going into too much detail, other obstacles include underfunded and under-resourced Tribal departments, lack of an appropriate home appraisal process, rigid HUD underwriting, impractical title status report process, and an overall multi-layered bureaucratic process that takes way too long without necessary accountability.

Question 2. How would you recommend that we address that obstacle?

Answer. The Community's housing crisis requires urgent, sustained attention and action at the federal and tribal levels. In addition to making federal housing funding (in today's dollars and at current construction costs) available to our local entities, we need to enhance tribal capacity to address the substandard housing and infrastructure conditions in our Community by encouraging greater self-management of Indian housing programs and by encouraging private sector financing to complement limited federal funding and programs. Our Community, through the Fort Belknap Tribal Housing Authority and Tribally-authorized community entities, has created a local task force to assess, address, and implement housing solutions across tribal departments and federal agencies.

With respect to the tribal level, the tribal departments need a central office to share residential housing information. An increase in capacity, both training and

human resources, will be necessary to coordinate all relevant information including maps, land, title, encumbrances, environmental reviews, cultural surveys, and access and communication between all applicable information technology systems, federal and tribal. In particular, access to TAAMS and the more comprehensive data portal referred to by BIA Director LaCounte in his testimony will be essential for the Tribal departments (and private sector companies interesting in tribal housing) to facilitate access to residential housing information that exists in the multiple information systems.

Our suggestions for the federal level contain much more detail in Councilman Mount's submitted written testimony (as well as a written statement by Mr. Brockie, CEO of the Community's tribally owned economic development entity) to the U.S. Senate Committee on Indian Affairs. In sum, we are currently pursuing HEARTH Act approval by the U.S. Department of the Interior for an alternative leasing program to augment existing federal housing resources. However, we need immediate deployment of federal agency resources to match our current task force resources to eliminate the major obstacles to homeownership and affordable housing in the following ways: digitization of land documents at the local and regional level; tribal access to BIA technology information systems that deal with land issues (e.g., new BIA data portal and TAAMS); expedited and more efficient HUD Section 184 loan guarantee process; a more efficient process for BIA's delivery of title status reports; and an overall expedited environmental review process for tribal housing.

In our view, congressional oversight is necessary to hold federal agencies accountable to help the tribal entities create and maintain a more simplified, sequential process that clearly defines who is responsible for what and when, with strict timelines and clear guidelines in place. This is essential to enable potential homebuyers on Indian reservations to have a fair and expedited opportunity to buy a home or have affordable housing, just like a conventional home mortgage or rental process off-reservation. An overall streamlined process can enable tribes and tribally-authorized entities more control and more accountability to the potential individual Indian homebuyers.

In our most recent survey of Fort Belknap employees, they said housing is the number one priority to make their lives better. And we know that access to stable, quality, accessible, affordable homes is the cornerstone to help kids do better in school, to enable workers find and keeps jobs, to begin to address homelessness and housing poverty, and to create a pathway out of poverty that reduces the long-terms costs to our Community for providing social services and criminal justice. With an increase in resources at the federal and Tribal levels, we firmly believe that we can be successful in making gains in addressing affordable housing and homeownership issues.

Question 3. What role does rental housing play in addressing the affordable housing crisis?

Answer. Other than much older low-income HUD rental units, rental housing is almost non-existent on the Fort Belknap Indian Reservation. Our community has persisted despite minimal rental options since 1995—the last units built with HUD funding. Specifically, as to the Fort Belknap Indian Community, a handful of low-income rental units were originally built in 1970 and these original housing units were followed by a few additional units annually until 1995. Even with the units built, over time we have discovered that these older units suffer from poor insulation, structural deficiencies, and significant mold problems.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO HON. ANDY WERK, JR.

Question 1. How prevalent is manufactured housing in your community? How do homeowners finance their manufactured home purchase?

Answer. Manufactured housing is relatively uncommon at Fort Belknap. While affordable, it is often not a good fit for the harsh winter weather conditions we experience on the Hi-Line, with freezing temperatures the majority of the year and significant snow accumulation. Additionally, the leasing challenges that drove the Tribe's decision to implement its HEARTH Residential Leasing Act also inhibit there being any place to put manufactured housing in the first place. And for the single-digit number of residential leases processed by the Fort Belknap BIA and Tribal Land, manufactured housing is just as difficult to finance as stick-built homes. Our Tribal members typically do not have access to conventional mortgages for manufactured homes, just as with stick-built homes.

Question 2. What policy recommendations for the manufactured housing market should we consider to lower the cost of mortgage for homebuyers, especially Native Americans?

Answer. In our view, the recommendations are the same as between manufactured housing and stick-built homes. We are encouraged by HUD's Section 184 reforms, which we understand generally include reducing paperwork burdens, increasing staff and eliminating unnecessary and duplicative environmental reviews—all of which serve to decrease the time burdens currently discouraging conventional mortgage lenders from lending on reservations. More competition would lower costs. Analogizing to football—where you have coaches, players and fans broadly fielding and supporting the team, we do not perceive the need for more coaches (mortgage lender education programs) or fans (those people without a vested interest but often making opinions about tribes or mortgage lenders despite a lack of experience in Indian Country), we need more players—mortgage lenders for whom it makes business sense to make loans to Native Americans living on reservations because they can timely complete their underwriting and security requirements (most particularly receiving BIA Title Status Reports) and be able to rely on having predictably repaid, enforceable mortgages in Indian Country just as they do off-reservation.

Question 3. The Federal Home Loan Bank also has an affordable housing mission. What investments in Native American homeownership has the Federal Home Loan Banks made? Is there a regional Bank that is a leader in serving Native American homebuyers and reservation communities?

Answer. Fort Belknap has no positive experience with these programs or any leadership by regional banks. We are in a mortgage desert. We are trying to solve that problem for ourselves, with our economic development arm, Island Mountain Development Group, preparing a Tribal mortgage code, investor education modules, and internal mortgage offerings for Tribal members that Island Mountain could in turn bundle and sell in the secondary market to the likes of Fannie and Freddie. We are working to both provide internal solutions and increase Tribal members' access to conventional mortgages by encouraging regulatory reforms and developing Tribal infrastructure to support mortgage lending.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO HON. R. HUNTER KURTZ

HUD Section 184 Loan Guarantee Program

Question 1. Congress established HUD's Section 184 Loan Guarantee Program to help Tribal members obtain homes on Tribal trust lands. However, according to multiple reports, only a small fraction of loans guaranteed by the Section 184 Program in recent years have been for home on trust lands. What steps is HUD taking to increase the utilization of the Section 184 Program for homes on trust lands?

Answer. HUD is currently developing a proposed rule to modernize and strengthen the Section 184 Loan Guarantee program. To help develop this proposed rule, HUD conducted 18 consultation sessions with Indian tribes across the country and solicited substantial feedback from all participants. Ultimately, HUD believes the proposed rule changes will increase utilization of Section 184 on trust lands.

In addition to the on-going rulemaking process, HUD continues to collaborate with the Bureau of Indian Affairs (BIA) on improving the BIA approval process for Section 184 loans on trust land. For instance, as discussed during the hearing, HUD is working with the BIA to gain access to the Trust Asset and Accounting Management System (TAAMS). This will help provide HUD with visibility into loans that are pending approval before the BIA and improve HUD's internal loan approval process.

Between 2017 and 2019, the number of Section 184 loan guarantees on trust land grew by 49 percent. HUD guaranteed a total of 179 loans on trust land in 2017, 249 loans on trust land in 2018, and 267 loans on trust land in 2019. HUD will work to continue this positive trend in the future.

Question 2. How does HUD work with lenders and borrowers participating in the Section 184 Program to ensure that borrowers receive the best possible rate for their home loans and are not taken advantage of by the lender?

Answer. HUD takes its oversight and monitoring responsibility for the Section 184 loan program very seriously. Lenders interested in participating as a Section 184 lender complete a detailed application and are thoroughly vetted to ensure they have the necessary licensing, experience, and expertise to provide quality service to Native American borrowers. In addition, lenders attend training on mortgaging tribal trust land loans as well as train any new loan originators. Existing approved

lenders are monitored to ensure adherence to their quality control plan and compliance with the Section 184 loan processing guidelines. We expect to address these issues in the proposed rule.

Manufactured Home Loans

Question 3. The Center for Indian Country Development examined loans that were made to Tribal members for manufactured homes and found that these loans are not only more prevalent among Native Americans living on trust land, but also more costly than loans for conventional stick-built homes. You testified that HUD is exercising oversight into the current use of manufactured housing in Indian Country. What is the scope of HUD's oversight in this regard?

Answer. Various HUD offices play a critical oversight role. The HUD Office of Manufactured Housing Programs issues and enforces national standards for the design, construction, installation, and performance of manufactured homes, in order to ensure their safety, quality, and affordability.

Additionally, under the Section 184 program, approved lenders are also required to follow stringent requirements when it comes to issuing loans for manufactured homes that HUD will guarantee under the program. For example, manufactured homes must be built after June 15, 1976, cannot be moved from their original foundation, must be de-titled, and the lender must provide HUD with a certification and engineer's report that the foundation complies with the HUD requirements and is of sufficient size and strength to support the unit, and more. These requirements ensure that a borrower is acquiring a home that is structurally sound and properly placed on a foundation.

Question 4. Do these oversight efforts include looking into predatory lending practices targeting Native borrowers seeking financing for manufactured homes?

Answer. HUD is committed to ensuring that no family falls victim to predatory lending practices, including Native American borrowers seeking financing for manufactured homes. The Section 184 lender approval process and program underwriting guidelines are both designed to ensure that the program only guarantees loans made by reputable lenders. Additionally, HUD monitors lenders to ensure that program requirements are complied with and to guard against fraud and misrepresentation. If HUD discovers that a lender has engaged in predatory or other prohibited lending practices, HUD would collaborate with the Consumer Financial Protection Bureau to ensure appropriate action is taken.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO HON. R. HUNTER KURTZ

Question 1. What policy recommendations for the manufactured housing market should we consider to lower the cost of mortgage for homebuyers, especially Native Americans?

Answer. There are two primary methods of financing manufactured homes: the financing of manufactured homes as chattel (home only) and the financing of manufactured homes titled as real estate (home and land).

Loans secured as chattel generally carry higher interest rates due to the higher risk of such collateral and the more limited secondary market, regardless of where such homes are located.

One way to help lower borrowing costs is to promote real property loans, and the ownership of fee simple land and leasehold mortgages on trust land. Another way to address this issue is to expand a secondary market for these kinds of chattel loans. HUD, however, has not explored the latter proposal.

Question 2. Could you elaborate on why many Native American families are unable to access HUD's Section 184 loan guarantee?

Answer. The Section 184 program remains the primary source of mortgage financing for Native American families. Annually, HUD guarantees thousands of loans to expand sustainable homeownership in Indian Country. However, major barriers remain—particularly when it comes to lending on trust land. In its 2017 Native American Housing Needs Study, HUD conducted a comprehensive analysis of mortgage lending on tribal land. The study found that there were various major barriers to lending on trust land, including the following:

1. The trust status of the land means the land cannot be alienated or easily be used as collateral.
2. Bureau of Indian Affairs (BIA) processing can be expensive, complex, and time-consuming.

3. Tribes must issue leases to tribal members who want to become borrowers so that they can mortgage their leasehold interests.
4. BIA and lenders must take various steps to allow NEPA reviews to be completed, which can take time.
5. Typical challenges of lending in very remote areas (e.g. weak private housing markets).

Additionally, for Section 184 lending to occur on trust land, a Tribe must also have the necessary legal ordinances. This includes an acceptable lease, foreclosure and eviction procedures, and priority of lien.

Tribes that are successfully utilizing Section 184 have developed in-house experts that: provide homebuyer education and credit counseling; are adept at navigating the lease and mortgage recording process; and have developed relationships with lenders to ensure that obstacles are addressed immediately so that the loan closes without delay. HUD is documenting these best practices through a series of national webinars that are posted on its webpage.

Question 3. Why are Native American and Alaska Native—reservation loans notably less likely to be FHA insured, VA-guaranteed, or Rural Housing Service-guaranteed than other loans?

Answer. HUD works with its partner agencies to ensure that borrowers access the loan product that is most beneficial to them. HUD also engages in interagency collaborative efforts designed to address barriers to mortgaging tribal trust land, streamline lease and title status report recording processes, educate lenders, and address duplicative environmental issues. HUD remains committed to these partnerships to ensure that Native families have a choice in the mortgage products that work best for them.

Prior to the inception of the Section 184 program, FHA insured mortgages on trust land under the Section 248 program. Since the authorization of the Section 184 program in the early 1990s, the Section 184 program has served as the primary source of mortgage loans in Indian Country and has generally been regarded as a more effective program than the predecessor Section 248 program, which is now largely inactive. This is because the Section 184 program is more tailored to meet the unique needs of Native American homebuyers. Under the Section 184 program, and unlike the Section 248 program, Indian tribes and Native American families have a dedicated Office of Loan Guarantee within the Office of Native American Programs to provide training and technical assistance, assist Tribes with developing required legal ordinances, and process loan guarantees to allow families to achieve homeownership.

HUD defers to the U.S. Department of Veterans Affairs (VA) and the U.S. Department of Agriculture (USDA) on questions related to the volume of guaranteed loans under their programs. HUD regards these agencies as major partners in the work of expanding homeownership in Indian Country. In furtherance of this common goal, HUD has collaborated with VA and USDA on various interagency initiatives, including the development of a model residential lease of tribal land that is acceptable to all agencies under their respective direct and guaranteed loan programs.

Question 4. How has HUD moved to ensure against losses in cases involving fraud, misrepresentation and other predatory practices in Native communities?

Answer. HUD's planned proposed rulemaking to update the Section 184 regulations would significantly strengthen the program by adding additional accountability and protecting borrowers and taxpayer dollars.

The regulatory changes we expect to be making will make the program more sustainable for years to come. However, it is important to note the program today is healthy and is on a good trajectory.

Question 5. How has HUD sought the advice and consultation of Native communities in its efforts to both broaden access to home mortgage credit and curb predatory lending practices?

Answer. HUD reaffirms its government-to-government relationship with Tribal governments and regularly engages in tribal consultation to ensure HUD policies and programs reflect the views of, and address the needs of, Tribal communities.

For instance, HUD engaged in extensive tribal consultation when developing the Section 184 draft proposed rule. Beginning in February 2018, HUD held 15 inperson regional and national sessions and three national teleconference consultation sessions. HUD began consulting with Tribes before the Department began drafting the regulation. Tribes were also given a copy of the proposed regulations to review and comment on before HUD began the process of readying the draft regulations for Departmental clearance and public comment.

During these consultation sessions, some Tribes expressed to the Department the need to expand access to lenders—specifically, many lenders do not have a local presence in remote Tribal communities, and Tribes indicated that this makes it more difficult for tribal members to obtain a mortgage loan. HUD took this feedback into consideration when developing the draft proposed rule. HUD will continue to solicit tribal feedback as this rulemaking process proceeds and looks forward to that input as it works to improve this vital program for Indian Country.

Question 6. Fannie Mae and Freddie Mac have a duty-to-serve manufactured homebuyers and rural communities. What involvement have Fannie Mae and Freddie Mac had on providing affordable financing for Native American communities?

Answer. HUD defers to Fannie Mae and Freddie Mac on questions relating to their work in Indian Country.

Question 7. The Federal Home Loan Bank also has an affordable housing mission. What investments in Native American homeownership has the Federal Home Loan Bank made? Is there a regional Bank that is a leader in serving Native homebuyers and reservation communities?

Answer. HUD defers to the Federal Home Loan Bank system on questions relating to work in Indian Country. However, the Department recognizes that funding from the Federal Home Loan Banks are often leveraged with HUD's Title VI Loan Guarantee program and other financing for affordable housing development in Tribal communities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO HON. R. HUNTER KURTZ

Community Development Financial Institutions

When the Community Development Financial Institutions (CDFI) Fund was created, CDFI's had limited access to private capital. Over the past two decades, the CDFI Industry has matured and extends credit and provide financial services to underserved communities. Despite this record of success, the President's Budget proposes to eliminate funding for Community Development Financial Institutions (CDFI) Fund discretionary grant and direct loan programs.

Nearly $8.7 million has been awarded to Washington state Native awardees. CDFI investments have also generated $12 in private capital for every dollar in CDFI grants. CDFI's are an important resource to provide economic development in underserved communities and provides assistance that is leveraged 12 times over.

Question 1. What programs does HUD or the Bureau of Indian Affairs have that provide the same or greater level of support for economic development in these communities?

Answer. HUD's Office of Native American Programs (ONAP) administers multiple programs that help foster economic development in Tribal communities.

Under the Indian Housing Block Grant (IHBG) program, ONAP provides approximately $650 million annually in formula grants to Indian tribes and Tribally Designated Housing Entities (TDHEs) to support affordable housing primarily for low-income families. Tribes and TDHEs rely on this critical source of funding to construct new housing units, maintain their existing housing stock, rehabilitate homes to extend their useful life, provide rental assistance to Tribal members, support the elderly and disabled, prevent homelessness amongst Veterans, and support self-sufficiency initiatives targeting youths. Tribes determine their housing priorities based on their local needs, and then direct the use of these funds to meet those needs consistent with principles of self-determination and self-governance.

Whether a Tribe or TDHE is using its annual funding to construct new housing units, rehabilitate and maintain existing housing units, or develop on-site utilities and housing-related infrastructure, these funds serve as a catalyst both for current and future economic development in Tribal communities. Tribes often employ Tribal members to help do the construction and rehabilitation work funded under the IHBG program. Some Tribes have developed strong force account crews that not only work to meet the needs of their community, but also have partnered with other Tribes to serve as contractors to help construct new homes and provide critical training to their host Tribe's workforce. This model ensures that these important IHBG dollars are recycled back into local tribal economies many times over. Beyond directly supporting the employment of Tribal members working on construction and other housing-related projects, these funds also support countless ancillary businesses that provide materials and services needed to carry out the affordable housing projects.

HUD's Title VI Loan Guarantee program is also an important catalyst of economic development in Indian Country. Under the program, a Tribe or TDHE can pledge a portion of its IHBG formula funding as collateral to secure private financing to carry out affordable housing and housing-related community development projects. Like the IHBG program, the Title VI Loan Guarantee program leverages both federal and non-federal sources of funding to help finance and carry out large-scale projects in Tribal communities. Since its inception, the program has been used to guarantee approximately $250 million of private capital to fund affordable housing and community development projects.

Finally, under the Indian Community Development Block Grant (ICDBG), ONAP provides over $60 million annually for competitive grants to Indian tribes to carry out a wide range of economic development, community development, and housing activities. Tribes have used these funds to help develop infrastructure (e.g. water and sewer projects, broadband, roads, and other utilities) in their communities to support economic development. Tribes have also used this funding to build public facilities, support small local businesses, provide public services, and rehabilitate homes for low- and moderate-income Tribal members. Like the IHBG program, when carrying out these activities, it is common for Tribes to use these funds to employ force account crews made up of local Tribal members and young people learning a trade or skill.

HUD recognizes that CDFIs have played an important role in bringing new capital to tribal and underserved populations. Currently, there are a total of 11 CDFIs, including six Native CDFIs, that have been approved as lenders under the Section 184 Indian Home Loan Guarantee program and that have extended mortgage credit to Native American borrowers. Some of these CDFIs offer Section 184 guaranteed loans in multiple states. HUD will also continue to work on ways to encourage CDFIs to participate in its programs and looks forward to collaborating with its partners at the CDFI Fund, Native CDFI groups, and others.

Indian Housing Block Grants

There are several federal programs that provide housing assistance to Native Americans, including the Indian Housing Block Grant program. These block grants can be leveraged to develop affordable rental housing and promote homeownership for low-income Native American households. Indian Housing Block Grants can also be combined with other funding sources like LIHTC to increase the supply of affordable housing.

Tribes in Washington state and across the country desperately need more affordable housing. For example, the Spokane and Nooksack reservation in my state have vacancy rates of zero percent.

Unfortunately, the President's Budget for Fiscal Year 2020 cuts funding by $44 million (6.5 percent cut) for Indian Housing Block Grants.

The Senate Appropriations Subcommittee on Transportation, Housing and Urban Development and Related Agencies provide a $220 million increase for Indian housing, including an increase of $48 million for formula grants, $100 million for competitive grants, and $65 million for Indian Community Development Block grants.

Question 2. How would the Administration's budget proposals impact Tribes' capacity to develop affordable housing and promote homeownership?

Answer. Under the President's budget request, Indian Housing Block Grants (IHBG) would be funded at $600 million in Fiscal Year 2020. At this level, HUD can run the IHBG allocation formula and allocate funding to all Indian tribes and TDHEs while avoiding anomalous allocations. The program has been at level funding since its inception.

HUD published a Notice of Funding Availability in 2019 and competed approximately $200 million in additional IHBG competitive funding. Tribes and TDHEs proposing to carry out construction, rehabilitation, and infrastructure projects will receive priority. HUD expects to announce awards soon. These grants will help address the severe shortage of affordable housing and severe overcrowding by facilitating housing construction and rehabilitation across Indian Country. Moreover, both the Senate and House Fiscal Year 2020 appropriations bills propose a third $100 million pot of IHBG competitive funding, meaning HUD expects to administer another IHBG competition shortly after the Fiscal Year 2020 Appropriations Act is enacted.

In addition to these resources, HUD works to promote the Title VI Loan Guarantee program—partly because the program leverages non-federal funds and, in turn, allows limited taxpayer dollars to go much further. HUD also provides technical assistance to Indian tribes and TDHEs and shares best practices to help them build capacity to find creative ways to finance complex projects and promote homeownership.

These resources will all help Indian tribes and TDHEs as they work to meet the needs of their communities.

Question 3. How would you improve this block grant program?

Answer. According to a 2010 study conducted by the Government Accountability Office, Indian tribes generally view the IHBG program as effective. Congress has enacted statutory amendments to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) multiple times over the years. Additionally, HUD has engaged in four separate rounds of negotiated rulemaking to improve and strengthen program requirements and the allocation formula used to distribute funding to all Indian tribes and TDHEs across the country. Nevertheless, HUD recognizes there are statutory and regulatory barriers that remain and should be addressed by Congress, HUD, and its federal partners.

The Department supports the reauthorization of NAHASDA. As Congress considers the reauthorization of the Act, which expired in 2013, HUD supports statutory changes that make Indian tribes and TDHEs eligible for Housing Counseling grants, strengthen HUD's oversight authority to ensure Tribes and TDHEs spend their annual block grants in a timely manner, and expand HUD's authority to address the unlawful expenditure of grant funds effectively. Additionally, HUD supports changes to the Section 184 program's authorizing statute. Specifically, changes that would authorize HUD to require lenders to indemnify the Department for losses caused by Section 184 loans involving fraud or misrepresentation by the lender. The Department also supports changes to allow the termination of lenders that are bad actors and that engage in fraud and misrepresentation under the Section 184 program. HUD looks forward to working with the Senate Committee on Indian Affairs on any legislation designed to improve the IHBG program.

Question 4. If enacted, how will these additional resources help address the affordable housing crisis for Native Americans?

Answer. The IHBG formula is dispersed to Indian tribes and TDHEs using an allocation formula that provides funds based on need as well as funding to operate and maintain Formula Current Assisted Stock previously developed under the U.S. Housing Act of 1937. Any additional IHBG funding would be disbursed to Indian tribes and TDHEs as part of their annual formula grants. A Tribe would then determine how best to utilize the additional funds, which can support construction of new housing, rehabilitation of housing, downpayment assistance, infrastructure, rental assistance, and housing services.

If enacted, the IHBG competitive funding would likely be used primarily to fund construction, rehabilitation, and infrastructure projects to support additional housing in tribal communities. As a result of the first round of IHBG competitive grants, HUD anticipates that approximately 1,200 new units will be built across Indian Country. During this first ever round of the competition, HUD received over 190 applications from Indian tribes and TDHEs. As discussed above, HUD anticipates additional IHBG Competitive funding to be enacted in FY2020 and will administer a competition that will fund strong projects and result in the construction of additional new housing units in tribal communities.

If enacted, the ICDBG funding would be awarded competitively and fund a wide variety of community development, economic development, and housing projects. Eligible uses of these funds include acquisition of property, rehabilitation of housing, installation of safe drinking water and wastewater disposal systems, construction of Head Start and other childcare facilities and of health clinics, removal of lead-based paint and mold, and improvement of public services and facilities. $4 million would be set aside to address imminent threats to health and safety.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY SENATORS CANTWELL, CORTEZ MASTO, AND UDALL TO HON. MAX ZUNI

HOUSING SUPPLY

Question 1. What Is the biggest obstacle to homeownership and affordable housing?

Lack of Financial Institutions

There are no banks on the lsleta Pueblo Reservation. There are also no credit unions (Policy Map, 2019). This means there are no opportunities to bank for lsleta Pueblo members on Pueblo land. Tribal members must travel off the Reservation to reach a bank. When Tribal members do travel offReservation. For our consumer loans, our borrowers often have low credit scores. TLS tracks this data. In FY15, 16, 17, and 18 respectively, the average credit score for a consumer loan client was

536, 547, 569, and 584. If FY19, the average credit score of our consumer loan borrowers has been 531. These Tribal members are not afforded the opportunity to step onto the first rung of the ladder by off-Reservation banks due to low credit scores stemming from lack of access to capital. We are the only financial institution that exists for the sole purpose of serving Pueblo members and in its short history, Tiwa has closed more home loans than Section 184, VA, and USDA loans combined. helping them to realize their asset-building goals. Importantly, we are based on ls1eta Pueblo lands.

Housing

On lsleta Pueblo Reservation, the vacancy rate (the percentage of houses available for rent or purchase) is 0 percent. This is a result of the extreme lack of housing available on lsleta Pueblo lands. This lack of supply means there are zero homes available for Pueblo members unless homes are newly built. Since FY15, 50 percent of our home loans have been new construction loans. In other words, we provide the financing for the construction of the home, and for the purchase of the home. We create housing where there is none.

Lack of Housing

Secondary data shows a tack of housing available for lsleta Pueblo families. This homeowner vacancy rate—which quantifies the percentage of homeowner inventory ready for sale—accurately demonstrates the lack of housing available. This rate is 0 percent for lsleta Pueblo. Since FY12, 75 percent of our home loans (40 loans) have been new construction loans. This means we have created 40 new homes for Tribal members to move into. We fund the construction of new homes to create homes for Tribal members to move into.

Lack of Access to Education

A final indicator of economic distress is the lack of education provided to Pueblo members. Educational attainment rates reflect this reality. ln the United States, 39.9 percent of the population over 25 has high school as their highest level of education. In New Mexico the same statistic is 41.4 percent. On the lsleta Pueblo Reservation, the rate is 53.1 percent (ACS, 2017 5-Year Estimates). The percentage of the population with a bachelor's degree or higher is 30.9 percent for the U.S., 26.9 percent for NM, and 8.8 percent for lsleta Reservation. There is a general educational attainment discrepancy for those on-Reservation compared to those off-Reservation.

A. Tiwa borrowers. many who are low income. are unable to receive federal funds to rehabilitate homes on flood plains.

- A large part of lsleta's residential areas are in flood plains.
- HUD Indian Housing Block Grant (IHBG} and Indian Community Development Block Grant (ICDBG) funds may be used as down payment assistance. Low income families are eligible for IHBG and ICDBG funding.
- The Federal Flood Disaster Protection Act of 1973 [1] (the "Act") prohibits the use of federal funds, including IHBG and ICDBG, on floodplains unless a community or tribe participates in the National Flood Insurance Program (NFIP) and purchases flood insurance.
- Flood insurance is expensive. The inability of low income borrowers to use federal funds as down payment assistance for the rehabilitation of homes on floodplains, many which are in substandard and dilapidated condition, makes it prohibitive to qualify for a loan.
- Further, flood mapping in lsleta was done without detailed studies to determine Base Flood Elevations (BFEs), which are necessary to obtain certified elevations for insurance. Obtaining flood insurance will require a borrower to engage a surveyor to conduct detailed studies to determine BFEs.
- A community (including a tribe) that participates in the NFIP is required to adopt flood standards on floodplains as established by the NFIP and enforce these standards. Adopting an approved NFIP flood ordinance is a burdensome and costly process that requires a tribe to hire a certified flood plain manager, develop and enforce flood standards, require certified elevations when building or rehabilitating on floodplains, and maintain tribal records on all new home construction and rehabilitation.
- Few tribes participate in the NFIP likely due to the administrative, technical, and financial burdens imposed by the NFIP.

[1] 42 U.S.C. 41Q6(a).

- States are exempt from the Act's requirement that a community join the NFIP before using federal funds on floodplains. The state exemption applies to federal affordable housing funds provided to states, including HOME funds and CDBG funds
- A provision in the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) Reauthorization Bill giving tribes the same exemption already enjoyed by states, would allow tribes to use IHBG and other federal affordable housing funds on floodplains utilizing a tribe's mitigation plan, without requiring a tribe to join the NFIP. This would allow tribes and their Tribally Designated Housing Entities to provide down payment assistance funds to low income borrowers for home construction or rehabilitation.
- We ask for your support of the NAHASDA Reauthorization bill and an exempt proviison for tribes in the bill.

B. Federal land laws and policies applicable to tribal trust lands.

- Federal land laws applicable to trust lands, found at 25 USC 81 and the BIA leasing regulations (25 CFR 162) require BIA approval of residential leases and mortgages. The BIA lease and mortgage approval and recording process is lengthy and cumbersome. Tiwa has waited 12 months for a Title Status Report (TSR), 12 months for BIA approval of a lease or mortgage, and 24 plus months before receiving the recorded lease and mortgage from BIA.
- The time it takes to close a loan on Indian trust lands deters many lenders.
- While HEARTH shortens the timelines by allowing tribes to enact leasing laws and approve specific types of land leases, including residential leases, without further approval by BIA, it's an expensive law for tribes to implement due to a tribe taking on BIA's role of reviewing and enforcing leases and mortgages, preparing surveys, and conducting environmental reviews.
- lsleta enacted its leasing law in 2018. BIA approved the law in April 2019.
- lsleta is in the process of planning the implementation of this law, which will require identifying funding to hire a leasing officer and contract with surveyors and environmental review firms to conduct environmental reviews.
- Once implemented, Tiwa anticipates that the time for closing on leasehold mortgages will be cut by more than half. The ability to bypass the lengthy BIA review and approval process will allow Tiwa and other lenders to close on mortgages within weeks versus months.
- HEARTH doesn't address the TSR process which must still be conducted by BIA. While some tribes have taken on recording as a function, it is an expensive endeavor and one which requires an expensive database compatible with the BIA titling system.
- While we have discussed the ability of the BIA titling system to become privatized, we realize that this is a discussion that must involve BIA.
- We ask for your support In helping tribes find a solution to this issue.

Question 2. How would you recommend that we address that obstacle?
Answer. Funding Available to Tiwa:

- Tiwa receives financial support from the NACA Program, the Pueblo of lsleta, and loans from other non-profits. The NACA Funds are vital to Tiwa's economic development initiatives, but insufficient for all Native CDFls competing for the funds. As of 2018, there were 73 certified Native CDFIs, with many other working towards becoming certified. Thirty-Eight Native CDFIs, including Tiwa, benefited from the $15.3 million in grants in FY 2018.
- It recently borrowed money from Oweesta, another Native CDFI, Investors, Tamalpais Trust, and Kalliopeia Foundation.
- Capital also comes from the revenue from the loan portfolios.
- Selling our loans on the secondary market to Fannie Mae would be an option to help Tiwa increase additional Capital, this is impossible because of FEMA, we need your help to find a solution to this.
- Tiwa's primary challenge is lack of funding to meet the lending needs of its community, and consistently seeks funds.
- Increased funding for the NACA Program is vital to economic growth on Indian reservations.
- We ask for your support of the NAHASDA Reauthorization bill and an exempt proviison for tribes in the bill.

Question 3. What role does rental housing play in addressing the affordable housing?

Answer. On lsleta Pueblo Reservation, the vacancy rate (the percentage of houses available for rent or purchase) is 0 percent. This is a result of the extreme lack of housing available on lsleta Pueblo lands. This lack of supply means there are zero homes available for Pueblo members unless homes are newly built. Since FY15, 50 percent of our home loans have been new construction loans. In other words, we provide the financing for the construction of the home, and for the purchase of the home. We create housing where there is none.

APPROVAL OF TRIBAL LEASING REGULATIONS

Question 4. Please describe the Pueblo's experience implementing the Act and any challenges to implementation that you suggest could be addressed by either the Department of the Interior or Congress.

Answer.

- Environmental Review Procedures have been a challenge. lsleta is in the process of planning the implementation of this law, which will require identifying funding to hire a leasing officer and contract with surveyors and environmental review firms to conduct environmental reviews.
- Once implemented, Tiwa anticipates that the time for closing on leasehold mortgages will be cut by more than half. The ability to bypass the lengthy BIA review and approval process will allow Tiwa and other lenders to close on mortgages within weeks versus months.
- HEARTH doesn't address the Title Status Reports and Environmental Review process which must still be conducted by BIA. While some tribes have taken on recording as a function, it is an expensive endeavor and one which requires an expensive database compatible with the BIA titling system and hiring firms are costly to conduct Environmental reviews under CFR Part 58 (HUD regulations.).
- While we have discussed the ability of the BIA titling system to become privatized, we realize that this is a discussion that must involve BIA.

NATIVE CDFIS.

Question 5. As a Native Community Development Financial Institution, please describe how Tiwa addresses lending risk factors, such as poor or no credit history, that traditional mortgage lenders In Indian Country are typically unable to accommodate.

Answer. Native CDFls are unique lenders:

Tiwa, like other Native CDFls, is unique in the following features:

- All its lending products have flexible underwriting criteria. Applicants are not required to have credit history.
- Home loans, have a maximum loan to value ratio of 100 percent.
- Mortgage loans do not require a down payment.
- Home loans have low interest rates equal to the 30-year Treasury bond rate (2.12 percent as of October 3, 2019) plus 1.375.
- Closing costs and origination fees can be financed in the loan amount.
- Tiwa provides homeownership and financial education and small business workshops, changing the lives of future generations and the economic picture in lsleta. Here is a story of one such family:
- Carrie (not her real name), a member of the lsleta Pueblo, improved her credit score by 87 points in less than two years with the help ofTiwa. As a teen parent, Carrie didn't realize the impact that her credit score could have on her life and her ability to access credit. Now, as a mother of five children and the only working member of her household, she sought a loan from Tiwa for extra help during the holidays and was provided with the credit counseling and education that would allow her to create a positive payment history and rebuild her credit. Not only did Carrie learn how to take action to positively impact her score, she has started educating her children on the importance of credit scores. Without the loan and counseling from Tiwa, Carrie says she wouldn't be where she is today.
- Tiwa requires all borrowers to either take a financial education class or one-on-one counseling provided by Tiwa. These classes are held annually and twice a day for 1 ° hours. The classes consist of 4 weeks of Budegting, Savings, Relat-

ing with money with your spouse or accountable partner,and dumping debt. Fifth week on reviewing your credit report and collections. Six week of Mortgages, Foreclosures, review of Debt to income and Loan to value ratios. Seven and Eighth week of reviewing 401Ks, Roth IRA's and Mutual funds. Nineth, Tenth, and Eleven week is review on being a smart consumer.

- Tiwa collaborates with the lsleta Pueblo Housing Authority and Pueblo of lsleta departments, such as the Social Services Department, the Library, the Elderly Center, and the Scholarship Office, to market its financial products and development services.
- Tiwa markets its products and services in the lsleta Pueblo newsletter and posts its publications at public places in lsleta.
- Tiwa has a website, *www.tiwalending.org.* where it posts its products and upcoming homeownership financial education workshops.
- Tiwa works closely with its borrowers to ensure they remain successful borrowers. For example, Tiwa contacts delinquent borrowers by telephone to find out their situation and work with them to resolve the delinquency while the delinquency is still manageable. In a pre-foreclosure situation, Tiwa worked closely with the family and the Pueblo of lsleta to identify a family member who could assume the loan. Most recently, Tiwa is working with the family of a deceased borrower to identify a qualified family member who can assume the loan.

Question 6. What amount of NACA Program funding per fiscal year would Tiwa consider sufficient to meet Its needs.

Tiwa's primary challenge is lack of funding to meet the lending needs of its community. and consistently seeks funds. Tiwa would like to receive at least $1,000,000.00 from the FA NACA program, this would allow Tiwa to provide at least 8 more homes to existing and new homeowners. Since 2009 historically Tiwa Lending Services has closed $7,091,717 with an average loan amount of $118,195.28. Tiwa has a waiting list currently and can not keep up with the demand for funds. nwa can't advertise funds due to the money being committed before they have the funds. Tiwa is working with USDA rural, RCAC, and 184 lenders to help with the Capital. Tiwa is now looking into building a partnership with the Federal Reserve Bank. The barriers still are there especially with FEMA and BIA.

Question 7. How prevalent Is manufactured housing in your community? How do homeowners finance their manufactured home purchase?

Answer. Refer to answer under question numbered 5.

Question 8. What policy recommendations for the manufactured housing market should we consider to lower the cost of mortgage for homebuyers, especially Native Americans?

Answer. Lower the down payment for all borrowers. Loan to Value needs to be addressed. No other recommendations at this time.

Question 9.. The Federal Home Loan Bank also has an affordable housing mission. What investments In Native American homeownership has the Federal Home Loan Bank made? Is there a regional Bank that is a leader in serving Native American homebuyers and reservation communities?

Answer. Tiwa Lending Services is exploring these partnerships.

Thank you.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO DARRYL LACOUNTE

Approval of Tribal Leasing Regulations

Question 1. Congress passed the Helping Expedite and Advance Tribal Homeownership (HEARTH) Act of 2012 to enhance Tribes' self-governance over Tribal lands and promote the efficient leasing of those lands for housing and business purposes. To exercise the enhanced authority provided by the HEARTH Act, Tribes must first adopt leasing regulations and submit them for approval to the BIA. According to the BIA's website, 45 Tribal leasing regulations have been approved by the BIA's Office of Trust Services since 2013. We understand that only three of the 45 regulations were approved in 2019, and that 26 applications are still awaiting action. What steps are the BIA taking to address this backlog?

Answer. BIA is directing additional resources to the program and working to centralize the leasing regulation review process. First, the BIA is working to fill the HEARTH Act coordinator position vacancy. Once the vacancy is filled, the leasing regulation review process will be streamlined from BIA field offices to the central

office responsibility to address pending reviews and move them forward for a decision.

Expediting Title Status Reports

Question 2. You indicated in your hearing testimony that the BIA is currently developing the Enterprise Land and Resource Data Warehouse to integrate its various business subsystems, including the Trust Asset and Account Management System (TAAMS), into one platform.

How do you expect this change to streamline the BIA's process of issuing Title Status Reports (TSR)? Will it address the reported delays in issuance?

Answer. The BIA Enterprise Land and Resource Data Warehouse will allow lenders to check on the status of their mortgage applications and to contact the BIA, improving communication. The TSRs are one of the items required in the mortgage application process. The portal will provide transparency in the issuance process by showing when a TSR request is made and when the certified TSR is received from Land Titles and Records Office.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO DARRYL LACOUNTE

Community Development Financial Institutions

Question 1. When the Community Development Financial Institutions (CDFI) Fund was created, CDFIs had limited access to private capital. Over the past two decades, the CDFI industry has matured and extends credit and provide financial services to underserved communities. Despite this record of success, the President's Budget proposes to eliminate funding for Community Development Financial Institutions (CDFI) Fund discretionary grant and direct loan programs.

Nearly $8.7 million has been awarded to Washington state Native awardees. CDFI investments have also generated $12 in private capital for every dollar in CDFI grants. CDFIs are an important resource to provide economic development in underserved communities and provides assistance that is leveraged 12 times over.

What programs does HUD or the Bureau of Indian Affairs have that provide the same or greater level of support for economic development in these communities?

Answer. In 2018, Assistant Secretary—Indian Affairs Tara Sweeney hosted the first ever Indian Affairs-Native CDFI Network roundtable at the Department of the Interior. The Department continues to collaborate with the Native CDFI Network on innovative ways to provide capital access for Native CDFIs and to attract the right types of investments into Indian Country.

Additionally, the Office of the Assistant Secretary—Indian Affairs provides technical assistance and funding that supports economic development for American Indian tribes, communities, and individuals. The Office of Indian Energy and Economic Development (IEED) provides funding opportunities including:

- The Native American Business Development Institute (NABDI) grant program, within the IEED Division of Economic Development—NABDI is designed to help Tribes retain qualified, impartial, third party consultants to conduct feasibility studies on economic development proposals, ideas, and technologies.
- The Tribal Energy Development Capacity (TEDC) grant program, within the IEED Division of Energy and Mineral Development (DEMD)—TEDC helps Tribes assess, develop, and secure the organizational and technical capacity needed to manage energy resources on Indian land and properly account for resulting energy production and revenues.
- The Energy and Mineral Development Program (EMDP) within the IEED DEMD—The EMDP provides funding for the assessment and marketing of tribal energy and mineral resources.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO DARRYL LACOUNTE

Question 1. Does the BIA get involved in financing manufactured housing? How do homeowners finance their manufactured home purchase?

Answer. The BIA reviews all mortgage applications for compliance with statutes, policies, and regulations.

Question 2. What policy recommendations for the manufactured housing market should we consider to lower the cost of mortgage for home buyers, especially Native Americans?

Answer. Whether the cost of a mortgage may be lowered is within the lender's discretion.

Question 3. The Federal Home Loan Bank also has an affordable housing mission. What investments in Native American homeownership has the Federal Home Loan Banks made? Is there a regional Bank that is a leader in serving Native American homebuyers and reservation communities?

Answer. We are not aware of a regional bank that is considered a leader in serving Native American homebuyers. However, nationwide lenders most utilized for Native American home buyers include 1st Tribal Lending and Bank2, particularly for HUD Section 184 home loans.

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