

**S. 235, THE ALASKA NATIVE TRIBAL HEALTH  
CONSORTIUM LAND TRANSFER ACT; S. 920,  
THE FOND DU LAC BAND OF LAKE SUPERIOR  
CHIPPEWA NON-INTERCOURSE ACT OF 2013;  
AND S. 1352, THE NATIVE AMERICAN HOUSING  
ASSISTANCE AND SELF-DETERMINATION  
REAUTHORIZATION ACT OF 2013**

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**HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS  
UNITED STATES SENATE**

**ONE HUNDRED THIRTEENTH CONGRESS**

**FIRST SESSION**

**JULY 31, 2013**

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**S. 235, THE ALASKA NATIVE TRIBAL HEALTH  
CONSORTIUM LAND TRANSFER ACT; S. 920,  
THE FOND DU LAC BAND OF LAKE  
SUPERIOR CHIPPEWA NON-INTERCOURSE  
ACT OF 2013; AND S. 1352, THE NATIVE  
AMERICAN HOUSING ASSISTANCE AND  
SELF-DETERMINATION REAUTHORIZATION  
ACT OF 2013**

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**WEDNESDAY, JULY 31, 2013**

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

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

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

The CHAIRWOMAN. The Senate Indian Affairs Committee will come to order.

This afternoon we are having a hearing on S. 235, the Alaska Native Tribal Health Consortium Land Transfer Act; S. 920, the Fond du Lac Band of Lake Superior Chippewa Non-Intercourse Act of 2013, and S. 1352, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2013.

I want to thank the witnesses for being here, and my colleague, the Vice Chairman of the Committee. I am sorry we are late. A vote on the Floor kept us delayed.

As I said, this afternoon, we are having a hearing on several bills. These bills address the issues at the core of tribal self-governance and self-determination: land and infrastructure. In order for tribes to thrive as governments, they need an adequate land base to provide for their members. Lands are vital for the basic tribal infrastructure needs such as educational facilities, elder care centers, natural resource protection and economic development projects.

The two lands bills before us today will allow the impacted tribes to make the best use of their lands to improve the lives of members and their surrounding communities. S. 235, the Alaska Native Tribal Health Consortium Land Transfer Act, would transfer a par-

cel of land from the Department of Health and Human Services to the Alaska Native Tribal Health Consortium. With the transfer to the Alaska Native Tribal Health Consortium, they will be able to construct a 170-room residential facility to accommodate patients from all over Alaska to receive treatment at the medical center.

S. 920, the Fond du Lac Band legislation, will provide Congressional authority for land exchange between the Fond du Lac and Carlton County. This exchange will allow the Band to acquire lands held by the county within the reservation and the county will acquire lands owned by the Band within the county. The Band will be able to consolidate its land holdings on its reservation to provide housing for members as well as other activities like gathering and hunting, and the county will be able to use its acquired lands to enhance the county's forestry resources.

This bill is a good example of how effectively governments can work together in ways that are beneficial to the entire community.

The final bill we will consider is S. 1352 reauthorization of the Native American Housing Assistance and Self-Determination Act. Senator Barrasso and I just introduced legislation with the support of many of our colleagues, Senators Johnson, Tester, Udall, Franken, Begich, Heitkamp, Schatz and Hirono. So a lot of people on the Committee. I want to thank all of them for their support.

In April, we had an oversight hearing on Indian housing issues. We heard a lot about the crisis that still exists in Indian Country. Currently there are 200,000 housing units needed immediately in Indian Country, and 25 percent of American Indian housing units have "severe housing needs". This means that those homes lack basic plumbing or kitchen facilities or other important infrastructure.

So the Native American Housing Assistance and Self-Determination Act recognizes that tribal governments are in the best position to allocate their funds for their members and the Committee's legislation would authorize the program for five years and streamline the processes among Federal agencies, provide support for Native American veterans and remove barriers for tribes to construct more sustainable housing.

So I think this bipartisan bill sends a clear message. We need to act now on successful housing programs for Indian Country. The bill is critical to providing adequate resources, attracting economic development to reservations and providing homes for teachers and public safety officers. So I look forward to hearing all the witnesses today.

Now I would like to turn it over to the Vice Chairman, Senator Barrasso, for his opening statement.

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

Senator BARRASSO. Thank you, Madam Chairwoman, for holding this hearing on these bills. All of these bills are very important.

Specifically, S. 1352, the reauthorization of the Native American Housing Assistance and Self-Determination Act, is important to all Indian tribes. Your leadership, Chairwoman Cantwell, on this reauthorization, is welcome and I am happy to co-sponsor this measure with you.

I want to note that this bill would further streamline the bureaucracy experienced in Indian housing development. In addition, it would also provide mechanisms to increase funding resources or leverage for more housing development. With the tight budget conditions and limited private investment in Indian Country, these changes should help the important work of tribally-designated housing entities.

I look forward to working with my colleagues on advancing this bill, so that the Indian housing act is reauthorized again. I also want to thank the witnesses for their testimony today.

Thank you again, Madam Chairwoman.

The CHAIRWOMAN. Thank you, Senator Barrasso.

We are going to start with our witnesses. We will start with you, Mr. McSwain. Then we will just go down the line. Thank you for being here.

**STATEMENT OF HON. ROBERT McSWAIN, DEPUTY DIRECTOR  
FOR MANAGEMENT OPERATIONS, INDIAN HEALTH SERVICE,  
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Mr. McSWAIN. Madam Chairwoman and members of the Committee, good afternoon. I am Robert McSwain, Deputy Director for Management Operations for the Indian Health Service.

I am pleased to have the opportunity to testify on S. 235, the Alaska Native Health Consortium Land Transfer Act, providing for conveyance of Indian Health Service real property located in Anchorage, Alaska, to ANTHC.

S. 235 would provide for the conveyance of certain property located in Anchorage, Alaska from the Federal Government to ANTHC in Anchorage, Alaska. It should be pointed out that ANTHC actually assumed responsibility for provision of the IHS-funded Health Service in 1999 under the authority of the Indian Self-Determination and Education Assistance Act.

The Federal property described in S. 235 is used in connection with health and related programs in Anchorage. In fact, just recently, we transferred the land to ANTHC, on June 25th, under a quitclaim deed. And it is recorded in the City of Anchorage.

Previously, on April 26th, IHS had executed a memorandum of agreement with ANTHC which sets forth the terms and conditions under which easements will be established, so IHS could transfer the ownership of the property to ANTHC by quitclaim deed. S. 235 provides for conveyance of the Anchorage property from the United States to ANTHC. It proposes to replace the quitclaim deed, transfer it by authorizing the use of a warranty deed. The easements, which will be established under the MOA, must be intact if a warranty deed is fully executed.

IHS supports the bill because it views the proposed transfer as furthering the special partnership that exists with American Indian and Alaska Native governments, and moreover, it is in keeping with the Presidential Memorandum on Administrative Flexibility as it pertains to tribal governments.

We have a couple of points on the bill that I would like to focus on. IHS believes the language relating to the following issues needs to be clarified or revised. Conveyance language should be revised to allow no less than 90 days to convey the property to ANTHC.

Secondly, legal description language, now that we have done the quitclaim deed, we actually have a slight change in that, and that is where we have indicated in our testimony that it is Tract A-3A, Tudor Centre, according to plat no. 2013-43, slight change then which adds in the bill, but it is accurate in accordance with the current surveys that we have done and actually moving the 2.79 acres over.

We look forward to working with you, Madam Chairwoman, on measures to improve the health of the Alaska Native population. This concludes my testimony and I appreciate the opportunity to appear before you to discuss this important bill. I would be happy to answer any questions.

[The prepared statement of Mr. McSwain follows:]

PREPARED STATEMENT OF HON. ROBERT MCSWAIN, DEPUTY DIRECTOR FOR MANAGEMENT OPERATIONS, INDIAN HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Madam Chairwoman and Members of the Committee:

Good afternoon. I am Robert McSwain, Deputy Director for Management Operations of the Indian Health Service (IHS). I am pleased to have the opportunity to testify on S. 235, the "Alaska Native Tribal Health Consortium (ANTHC) Land Transfer Act", providing for the conveyance of Indian Health Service (IHS) real property located in Anchorage, Alaska to ANTHC.

The Indian Health Service (IHS) plays a unique role in the Department of Health and Human Services (HHS) because it is a health care system that was established to meet the federal trust responsibility to provide health care to American Indians and Alaska Natives (AI/ANs). The mission of the IHS, in partnership with American Indian and Alaska Native people, is to raise the physical, mental, social, and spiritual health of AI/ANs to the highest level. The IHS provides comprehensive health service delivery to approximately 2.2 million AI/ANs through 28 Hospitals, 61 health centers, 33 health stations and 3 school health centers. Tribes also provide healthcare access through an additional 16 hospitals, 235 health centers, 164 Alaska Village Clinics, 75 health stations and 6 school health centers. In support of the IHS mission, the IHS and Tribes provide access to functional, well maintained and accredited health care facilities and staff housing.

S. 235 would provide for the conveyance of certain property located in Anchorage, Alaska from the Federal Government to the Alaska Native Tribal Health Consortium (ANTHC) in Anchorage, Alaska. ANTHC assumed responsibility for the provision of the IHS-funded health care services in 1999 under the authority of the Indian Self-Determination and Education Assistance Act (ISDEAA). The federal property described in S. 235, which is used in connection with health and related programs in Anchorage, Alaska by the IHS, was transferred to ANTHC by quitclaim deed and recorded in the Anchorage Recording District on June 25, 2013.

On April 26, 2013, IHS executed a Memorandum of Agreement (MOA) with ANTHC, which sets forth terms and conditions under which easements will be established so IHS could transfer ownership of the Anchorage property to ANTHC by quitclaim deed. S. 235 provides for the conveyance of the Anchorage property from the United States to the ANTHC and proposes to replace the quitclaim deed transfer by authorizing the use of a warranty deed. The easements, which will be established under the MOA, must remain intact if a warranty deed is executed.

The IHS supports this bill because it views the proposed transfer as furthering the special partnership that exists with American Indian and Alaska Native tribal governments, and, moreover, is in keeping with the Presidential Memorandum on Administrative Flexibility as it pertains to tribal governments. It is important to emphasize that, as a normal practice, IHS does not transfer properties via the warranty deed mechanism. However, we will support an exception in this case because of the ANTHC initiative to expand access to its health care system for IHS beneficiaries from throughout Alaska. This proposal will give the ANTHC flexibility to leverage additional resources because ownership of the property under a warranty deed will give them unencumbered ownership of the property described in S. 235.

IHS believes the language, relating to the following issues needs to be clarified and/or revised:

- Conveyance language should be revised to allow no less than 90 days to convey the property to ANTHC;
- Environmental Liability language needs to be clarified so the ANTHC is responsible for any environmental contamination which may have occurred since its control of the property began in 1999, or for contamination that may occur or arise “as of, or after, the date of the 2013 conveyance”; and,
- “Reversionary Clause” language should be clarified to apply in case of retrocession by ANTHC from their ISDEAA compact.
- Legal Description language needs to be changed to describe accurately the property to be conveyed: “Tract A-3A, Tudor Centre, according to plat no. 2013-43, recorded on June 20, 2013 in Anchorage recording district, Alaska, containing 2.79 acres more or less”.

We believe that reasons to use this mechanism in future cases are limited. IHS anticipates no problems with the quitclaim deed currently being processed by IHS for ANTHC. Traditionally, Alaska Tribal Health Organizations (THOs) have preferred to leave the title of their facilities previously operated by the IHS with the Federal Government, and the majority of the health care facilities used by the Tribes in the other 35 states are located on tribally owned lands. This warranty deed transfer would be the fourth of its kind in Alaska. IHS recently issued three warranty deeds authorized by Congress to transfer parcels of land to the Maniilaq Association previously transferred through a quitclaim deed. On other numerous occasions properties were transferred to Tribes or Tribal Organizations through quitclaim deeds.

We think retrocession is unlikely. We can count only four retrocessions since the enactment of ISDEAA in 1975. Three were only small program components which have been re-assumed by the Tribes. None of these retrocessions was in the Alaska Area.

We look forward to working with you, Madam Chairwoman, on measures to improve the health of the Alaska Native population. Madam Chairwoman, this concludes my testimony. I appreciate the opportunity to appear before you to discuss S. 235. I will be happy to answer any questions the Committee may have. Thank you.

The CHAIRWOMAN. Thank you very much. Thank you for being here.

Mr. Teuber, thank you very much. We look forward to your testimony.

**STATEMENT OF ANDY TEUBER, CHAIRMAN/PRESIDENT,  
ALASKA NATIVE TRIBAL HEALTH CONSORTIUM**

Mr. TEUBER. Thank you. Good afternoon, Chairwoman Cantwell and Ranking Member Barrasso, other members of the Committee.

My name is Andy Teuber. I am the Chairman and President of the Alaska Native Tribal Health Consortium. Thank you for the opportunity today to testify in support of S. 235, the Alaska Native Tribal Health Consortium Land Transfer Act.

ANTHC, as it is known, is a statewide tribal health organization that serves all 229 federally-recognized tribes and over 143,000 Alaska Natives across the State of Alaska. We are the largest, most comprehensive tribal health organization in the United States. Through a self-governance compact, ANTHC provides health services that were previously provided by the Indian Health Service.

ANTHC jointly operates the Alaska Native Medical Center with South Central Foundation. Located in Anchorage, this 150-bed hospital is the statewide tertiary care center for over 143,000 Alaska Natives and American Indians who reside in the State. Each year we provide over 287,000 outpatient visits, 54,000 emergency department visits, 8,000 inpatient admissions, 1,500 infant deliveries and over 10,000 annual surgical procedures. We believe ANMC is one of the finest facilities in the Indian health system.

As a level 2 trauma center, ANMC is the highest certified trauma hospital in Alaska. This recognition certifies our ability to provide quality care to people who suffer traumatic injuries 24 hours a day, 365 days a year. Today, Alaska Natives are healthier and living longer as a result of the care provided at ANMC and by the tribal health system.

However, there is much more work needing to be done. One of our main challenges is meeting the increased demand for health services of an ever-increasing population of Alaska Natives. The population we serve has increased by over 34 percent since ANMC first opened, increasing from 105,000 in 1997 to well over 143,000 today. To meet current and future needs, ANTHC has developed a comprehensive campus facilities master plan. We have identified an immediate need for increased patient housing to increase the capacity at ANMC.

As ANMC serves as the referral hospital for tertiary cases for the entire Alaska Tribal Health System, many of our patients we serve are from villages many hundreds of miles away and outside of Anchorage. We have included Exhibit A that illustrates the span of our referral pattern. For these individuals, the biggest challenge in accessing specialty services at ANMC is the lack of housing and an affordable place to stay while in Anchorage. ANTHC has undertaken extraordinary efforts to accommodate traveling patients as best we can with limited resources. However, the cost of providing housing to patients and medically necessary escorts under the current system has risen dramatically and will be unsustainable in the future.

In 1999 the cost of providing housing for patients and escorts was \$600,000. This cost has increased eight-fold today, to \$4.8 million. Because we receive only minimal reimbursements for providing patient housing, we expect an estimated net loss of \$4.5 million for in fiscal year 2012 for providing this patient housing. This cost is borne solely by ANTHC from ANMC operating funds. Our current capacity for patient residential housing is 52 rooms at our Qujana House, managed by ANMC, and 110 hotel rooms that ANMC contracts for at another additional expense.

In order to improve patient care and contain costs for providing housing to patients and their escorts who receive care at ANMC, we need to construct this 170-room residential and outpatient guest facility. Estimated construction cost of the patient housing facility is around \$40 million. After completion, the housing facility will save ANTHC an estimated \$2 million per year. The patient housing facility will be built on the closest open land to ANMC, which is located directly across the road, north of ANMC. The housing facility will be connected to ANMC via a sky bridge, maximizing patient care and minimizing transportation expenses.

On June 25th, the Indian Health Service provided a quitclaim deed to ANTHC for the 2.79 acre parcel where the Patient Housing Facility will be built. The housing facility will be built using non-Federal funds. Currently there are no buildings on the 2.79 acre parcel ANTHC is seeking to obtain warranty deed title to, through S. 235, and the land is being used for parking currently. To address parking issues that may arise from displacement, ANTHC is also

in the design phase of constructing a parking garage on the 2.79 acres.

If enacted, this important legislation would allow ANTHC to successfully continue to fulfill the Federal Government's trust responsibility by providing for the current and future health care needs of Alaska Natives and American Indians.

Thank you for this opportunity to testify today. I am happy to answer any questions.

[The prepared statement of Mr. Teuber follows:]

PREPARED STATEMENT OF ANDY TEUBER, CHAIRMAN/PRESIDENT, ALASKA NATIVE TRIBAL HEALTH CONSORTIUM

Good afternoon Chairwoman Cantwell, Ranking Member Barrasso, Senator Murkowski, Senator Begich and other members of the Committee. My name is Andy Teuber. I am the Chairman and President of the Alaska Native Tribal Health Consortium (ANTHC). Thank you for the opportunity to testify in support of S. 235-the Alaska Native Tribal Health Consortium Land Transfer Act.

ANTHC is a statewide tribal health organization that serves all 229 federally-recognized tribes and over 143,000 Alaska Natives and American Indians in Alaska. We are the largest, most comprehensive tribal health organization in the United States. Through a Self-Governance Compact, ANTHC provides health services that were previously provided by the Indian Health Service.

ANTHC jointly operates the Alaska Native Medical Center (ANMC) with Southcentral Foundation. Located in Anchorage, this 150-bed hospital is the statewide tertiary care center for over 143,000 Alaska Natives and American Indians who live in Alaska. Annually, we provide over:

- 287,000 outpatient visits;
- 54,000 emergency department visits;
- 8,000 inpatient admissions;
- 1,500 infant deliveries; and
- 10,000 surgical procedures.

We believe ANMC is one of the finest facilities in the Indian health system. As a Level II Trauma Center, ANMC is the highest certified trauma hospital in Alaska. This recognition certifies our ability to provide quality care to people who suffer traumatic injuries 24 hours a day, 365 days a year. Today, Alaska Natives are healthier and living longer as a result of the care provided at ANMC and by the Alaska Tribal Health System.

However, there is much more work to be done. One of our main challenges is meeting the increased demand for health services of an ever-increasing population of Alaska Natives. The population we serve has increased by over 34 percent since ANMC first opened, increasing from about 105,000 in 1997 to over 143,000 today. To meet current and future needs ANTHC has developed a comprehensive campus facilities master plan. We have identified an immediate need for increased patient housing to increase capacity at ANMC.

As ANMC serves as the referral hospital for tertiary cases for the entire Alaska Tribal Health System, many of the patients we serve are from villages many hundreds of miles outside of Anchorage (see Exhibit A, attached). For these individuals, the biggest challenge in accessing specialty services at ANMC is the lack of housing and an affordable place to stay while in Anchorage. ANTHC has undertaken extraordinary efforts to accommodate traveling patients as best we can with limited resources. However, the cost of providing housing to patients and medically necessary escorts under the current system has risen dramatically and will be unsustainable in the future.

In 1999 the cost of providing housing for patients and escorts was \$600,000. This cost has increased 8-fold, to \$4.8 million, in FY 2012. Because we receive only minimal reimbursements for providing patient housing, we expect an estimated net loss of \$4.5 million for in FY 2012 for providing patient housing. This cost is borne solely by ANTHC from ANMC operating funds. Our current capacity for patient residential housing is 52 rooms at our Quiana House, managed by ANMC, and 110 hotel rooms that ANMC contracts for at considerable expense.

In order to improve patient care and contain costs for providing housing to patients (and their escorts) who receive care at ANMC, we need to construct a 170-room residential and outpatient guest room facility. Estimated construction cost of

the Patient Housing Facility is \$40 million currently. After completion, the housing facility will save ANTHC an estimated \$2 million per year.

The Patient Housing Facility will be built on the closest open land to ANMC, which is located directly across the road, north of ANMC. The housing facility will be connected to ANMC via a sky bridge, maximizing patient care and minimizing transportation expenses.

On June 21, 2013 the Indian Health Service provided a quitclaim deed to ANTHC for the 2.79 acre parcel where the Patient Housing Facility will be built (see Exhibit B, attached). The housing facility will be built using non-federal funds. Currently there are no buildings on the 2.79 acre parcel ANTHC is seeking to obtain warranty deed title to, through S. 235, and the land is being used for parking. To address parking issues that may arise from displacement, ANTHC is also in the design phase of constructing a parking garage on the 2.79 acre parcel.

While the quitclaim deed allows ANTHC to begin construction of the Patient Housing Facility, it is still necessary that ANTHC hold an unencumbered title to the land on which the Patient Housing Facility will be located on. Having an unencumbered title will allow ANTHC to use the Patient Housing Facility as collateral to obtain the financing necessary to achieve our long-term expansion needs. This can only be accomplished through federal legislation, therefore the need for S. 235.

We respectfully request favorable consideration of S. 235, which, if passed, would greatly improve the accessibility of much needed health services for Alaska Natives and American Indians throughout Alaska, whose health care status, despite years of progress, continues to lag far behind other populations in Alaska and the rest of the United States.

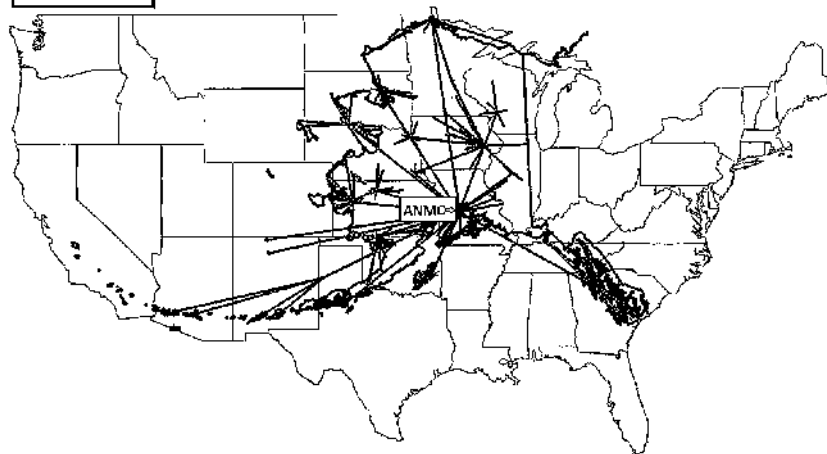
If enacted this important legislation would allow ANTHC to successfully continue to fulfill the Federal Government's trust responsibility by providing for the current and future health care needs of Alaska Natives and American Indians throughout Alaska.

#### **Attachments**

### **THE ALASKA NATIVE HEALTH CARE SYSTEM REFERRAL PATTERN**

Same Scale Comparison - Alaska Area to Lower 48 States

#### **Exhibit A**





The CHAIRWOMAN. Thank you very much.  
Ms. Harris?

**STATEMENT OF SARAH HARRIS, CHIEF OF STAFF TO  
ASSISTANT SECRETARY—INDIAN AFFAIRS, U.S.  
DEPARTMENT OF THE INTERIOR**

Ms. HARRIS. Good afternoon, Chairwoman Cantwell, Vice Chairman Barrasso, members of the Committee.

My name is Sarah Harris, and I am a member of the Mohegan Tribe from Connecticut. I am here today in my capacity as the Chief of Staff to Assistant Secretary for Indian Affairs Kevin Washburn.

Thank you for the opportunity to provide the Department's statement on S. 920, the Fond du Lac Band of Lake Superior Chippewa Non-Intercourse Act of 2013. The Department supports S. 920. The Department is aware the Fond du Lac Band of Lake Superior Chippewa and Carlton County in Minnesota want to finalize an agreement for an exchange of land. We are supportive of their efforts to work together to resolve these important land issues within their communities.

Under the agreement, the Band would exchange 1,451 acres of off-reservation land that it owns in fee simple for 3,200 acres of on-reservation land that is administered by Carlton County. It is our understanding that the two parcels are of equivalent value. It is important to note that this proposed land exchange does not in-

volve any lands held in trust by the Department or the United States for the benefit of the band.

Both the band and the county have requested this legislation because they believe that the land exchange is prohibited unless authorized by Congress. Both cite Federal Law 25 U.S.C. Section 177, which prohibits any purchase, grant, lease or other conveyance of lands or any title or claim thereto from any Indian nation or tribe of Indians unless authorized by Congress. Therefore, the State of Minnesota is of the opinion that it cannot give final approval to the land exchange without an act of Congress authorizing the Band to convey its title to this land.

S. 920 is not limited to this specific land exchange. Instead, the bill provides more broad authority for the Band to lease, sell, convey, warrant or transfer all or any portion of any interest in its real property not held in trust by the United States for the benefit of the Band. Thus, S. 920 would allow the Band to do with its lands what it deems fit, as long as that land is not held in trust by the United States. Therefore, the Department supports S. 920.

Thank you for the opportunity to appear before you here today. I am happy to answer any questions you may have.

[The prepared statement of Ms. Harris follows:]

PREPARED STATEMENT OF SARAH HARRIS, CHIEF OF STAFF TO ASSISTANT  
SECRETARY—INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon, Chairwoman Cantwell, Vice Chairman Barrasso, and members of the Committee. Thank you for the opportunity to provide a statement on behalf of the Department of the Interior (Department) on S. 920, the Fond du Lac Band of Lake Superior Chippewa Non-Intercourse Act of 2013. The Department supports S. 920.

The Department is aware that the Fond du Lac Band of Lake Superior Chippewa (Band) and Carlton County (County) in Minnesota propose to implement an agreement that they have for an exchange of land. The land exchange involves 1,451 acres of land located outside the Fond du Lac Reservation, which are owned in fee simple by the Band. These lands would be exchanged for tax-forfeited lands of equivalent value (approximately 3,200 acres) that are administered by Carlton County, the title to which is held by the State of Minnesota, and which are located within the Fond du Lac Reservation. This proposed land exchange does not involve any lands held in trust by the United States for the benefit of the Band.

However, both the Band and the County are of the opinion that this land exchange is prohibited unless authorized by Congress. The Band and County cite federal law, 25 U.S.C. § 177, which prohibits any “purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians” unless authorized by Congress, and therefore the State of Minnesota is of the opinion that they cannot give final approval to the land exchange without an Act of Congress authorizing the Band to convey its title to this land.

S. 920 is not limited to this specific land exchange, but instead is more broad and would allow the Fond du Lac Band of Lake Superior Chippewa in the State of Minnesota (Band) to lease, sell, convey, warrant, or transfer all or any portion of the interest in *any real property not held in trust status* by the United States for the benefit of the Band. The legislation also clearly states that S. 920 does not authorize the Band to lease, sell, convey, warrant, or otherwise transfer all or any portion of any interest in *any real property that is held in trust by the United States for the benefit of the Band*. Thus, S. 920 would allow the Band to do with those lands not held in trust status, likely all lands held in fee simple by the Band, as the Band deems fit. Therefore the Department supports S. 920.

Madam Chairwoman and members of the Committee, thank you for the opportunity to appear before you today. I am happy to answer any questions you may have.

The CHAIRWOMAN. Thank you. Ms. Henriquez, thank you for being here.

**STATEMENT OF HON. SANDRA HENRIQUEZ, ASSISTANT  
SECRETARY FOR PUBLIC AND INDIAN HOUSING, U.S.  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Ms. HENRIQUEZ. Good afternoon, Chairwoman Cantwell, Vice Chairman Barrasso and members of the Committee. Thank you for inviting me to testify today on S. 1352, a bill to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996, otherwise known as NAHASDA.

My name is Sandra Henriquez, and I am the Assistant Secretary for Public and Indian Housing at HUD. PIH is responsible for the management, operation and oversight of HUD's American Indian, Alaska Native and Native Hawaiian housing programs. HUD is very pleased that the reauthorization of NAHASDA is a priority for this Committee. We strongly support reauthorization of NAHASDA, because this law is essential to creating sustainable tribal communities.

NAHASDA provides a successful approach guided by the principles of self-determination, consultation and self-governance, to delivering decent and affordable Indian housing and developing tribal economies. The Indian Housing Block Grant, the largest program under NAHASDA, has infused almost \$10 billion in to Indian housing and community development since its inception about 16 years ago. Over the life of the program, IHBG recipients have built or acquired more than 35,000 affordable housing units in Indian Country and substantially rehabbed more than 66,000. Recipients currently maintain almost 51,000 HUD units that were funded before NAHASDA was enacted.

HUD is currently analyzing and reviewing S. 1352, and would like the opportunity to work with the Committee and staff to provide recommendations on some of the existing provisions as well as offer insight on ways to further improve NAHASDA. We are particularly pleased to see an effort on the part of the Committee bill to address the needs of homeless veterans on reservations.

For the past year, HUD's Office of Native American Programs has collaborated with the Veterans Administration in an effort to find ways that existing Federal programs can be used to reduce the number of homeless vets living on reservations. We are happy to assist with further development of this concept, and explore ways in which HUD VASH can work in Indian Country without creating a separate program or subjecting tribal recipients to burdensome administrative requirements.

HUD also understands the desire of this Committee and IHBG recipients to streamline environmental reporting requirements. Staff is working diligently to develop an approach to streamline the requirements in a way that can be supported by all the agencies involved in Indian housing projects. We are currently exploring the feasibility of creating one standard for environmental reporting requirements that would meet the needs of these agencies. HUD has proposed that the recently created White House Council on Native American Affairs consider working on this issue.

Finally, HUD is encouraged to see the Committee bill supporting the reauthorization of the Native Hawaiian Homeownership Act. These programs are vital to providing housing to more than 26,000

Native Hawaiian families currently on the waiting list for decent, safe and affordable housing.

In addition to these important initiatives contained in S. 1352, HUD requests that the Committee consider including language to support the following principles; clarification of existing statutory language to preserve the intent of NAHASDA, allocate more IHGB funding according to need and ensure that homes are conveyed to families as intended; to authorize the collection of data on sustainable construction practices, energy efficiency, construction costs and the level of assistance provided to elders and veterans from IHGB recipients; to require non-dwelling structures funded by NAHASDA to also be covered by adequate insurance, like housing units are currently required to be covered under the statute, as they represent a significant investment of limited funding. Also, we are looking for the modification of hearing requirements, to allow for the commencement but not completion of a hearing with 60 days of instituting an enforcement action.

HUD has concerns with some of the amendments proposed in S. 1352. The change to Section 101 regarding program income would further loosen already very flexible requirements regarding the use and tracking of income generated from IHGB units. Under the proposed amendment, income generated on the sale proceeds would not be required to be spent on housing or housing-related activities. Additionally, we are not able to support the proposed amendment to Section 201, because we want to preserve the affordability of housing units when NAHASDA funds are invested. We want to prevent NAHASDA units from being flipped to non-low income or even non-Indian families.

Finally, we understand that there are concerns regarding Indian tribes requesting approval to exceed total development costs, or TDC, and the desire to have some flexibility when sustainability and housing practices are used in housing construction. We wholeheartedly support sustainability concepts and recipients are able to use the statutory requirement because it was developed as it is in response to an IG investigation regarding the construction of large homes in the northwest using NAHASDA funds.

I would say HUD supports sustainable practices. We are happy to provide suggestions and assistance with drafting of an amendment that allows for variances for sustainable construction, TDC, which also preserves the underlying integrity of the policy which is to prevent the investment of IHGB funds in a few high cost homes, instead of dedicating the funds to producing more affordable housing units.

We look forward to working with the Committee and the Committee staff to provide technical assistance and to discuss ways to refine S. 1352 to support our mutual goal: meeting the housing needs of American Indian, Alaska Native and Native Hawaiian families, and continuing to create sustainable tribal communities. Thank you, and I look forward to your questions.

[The prepared statement of Ms. Henriquez follows:]

PREPARED STATEMENT OF HON. SANDRA HENRIQUEZ, ASSISTANT SECRETARY FOR  
PUBLIC AND INDIAN HOUSING, U.S. DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT

Good Afternoon Chairwoman Cantwell, Vice Chairman Barrasso, and Members of the Committee. Thank you for inviting me to testify on S 1352, a bill to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA.)

My name is Sandra Henriquez and I am the Assistant Secretary for Public and Indian Housing (PIH) at HUD. PIH is responsible for the management, operation, and oversight of HUD's American Indian, Alaska Native, and Native Hawaiian housing programs.

NAHASDA provides a successful approach, guided by the principles of self-determination and self-governance, to providing decent and affordable Indian housing and developing tribal economies. The Indian Housing Block Grant, the largest program under NAHASDA, has infused more than \$9.9 billion into Indian housing and community development since its inception 16 years ago.

Over the life of the program IHBG recipients have built or acquired more than 35,000 affordable housing units in Indian Country, and substantially rehabbed more than 66,000. IHBG recipients also currently maintain almost 51,000 "HUD units" that were funded before NAHASDA was enacted.

HUD is very pleased that the reauthorization of NAHASDA is a priority for this Committee. HUD strongly supports the reauthorization of NAHASDA because the law is essential to building sustainable tribal communities.

We are currently analyzing and reviewing S. 1352, and would like the opportunity to work with the Committee and staff to provide recommendations on some of the existing provisions, as well as offer insight on ways to further improve NAHASDA.

Today, I would like to share with you our initial views on the draft bill. First I will comment on the provisions included in the bill and then discuss some principles HUD would like to see reflected in the bill.

HUD is particularly pleased to see an effort on the part of the Committee bill to address the needs of homeless veterans on reservations. For the past year, PIH has collaborated with the Department of Veterans Affairs in an effort to find a way to use the HUD VASH program to reduce the number of homeless veterans living on reservations. We look forward to working with the Committee to further tailor the existing HUD VASH program to work in Indian Country.

HUD also understands the desire of this Committee and IHBG recipients to streamline environmental reporting requirements. We appreciate the Committees attempt to address this vexing issue but feel the issue needs even further study. HUD ONAP staff has been working diligently to develop an approach to streamline the requirements in a way that can be supported by all the agencies involved in Indian housing projects. We are currently exploring the feasibility of creating one standard for environmental reporting requirements that would meet the needs of these agencies. HUD will also be proposing that the recently created White House Council on Native American Affairs consider working on this issue.

And finally, HUD is encouraged to see the Committee bill supporting the reauthorization of the Native Hawaiian Homeownership Act. This program is vital to providing housing to the 26,546 Native Hawaiian families currently on the waiting list for decent, safe and affordable housing.

While we are still reviewing the bill in its entirety, I would like to share some initial reactions to proposed amendments to two sections of NAHASDA included in S 1352. First, proposed amendments to Section 104 would further loosen already flexible requirements regarding the use and tracking of program income. We need to carefully explore the implications of this change on funding for affordable housing and Federal oversight. Additionally, we need to consider the possible impacts of proposed amendments to Section 205 on the long-term preservation of affordable NAHASDA units.

Finally, we understand there are concerns from Indian tribes requesting approval to exceed total development costs (TDC), and the desire to have additional flexibility when projects may exceed TDC. Under current law, IHBG recipients are able to exceed TDC by 10 percent without HUD approval. For example, in the Northwest where the TDC for a three bedroom home is around \$ 350,000, the current statute allows for recipients to exceed this amount by \$35,000 without HUD approval bringing the TDC up to \$385,000. If recipients wish to exceed the 10 percent cap, under the current regulations they may seek a variance from HUD. The proposed amendment would provide recipients the authority to exceed TDCs up to 20 percent over the TDC limit without prior HUD approval. So if the TDC is \$350,000 then it would allow IHBG recipients to exceed the cap by \$70,000 or up to \$420,000 without prior

HUD approval. It is our understanding that this language is being requested to allow for variances caused by the use of sustainable green building practices. HUD supports sustainable practices. However, we need to carefully balance this goal with the equally important goal of preventing the investment of IHBG funds into a few high costs homes instead of dedicating the funds to producing more affordable housing units.

HUD would also like to work with the Committee on changes to NAHASDA to reflect the following principles:

- Enrich the type of data reported by recipients, including data on energy efficiency, construction costs, and level of assistance provided to elders and veterans.
- Strengthen insurance requirements to better protect NAHASDA investments and improve retention of records for monitoring purposes.
- Preserve the intent of NAHASDA by ensuring that homes are conveyed to families as intended.
- Protect NAHASDA funds in emergency situation.

HUD also shares Congress's concern about the concentration of unexpended IHBG funds. In addition to providing intense technical assistance to grantees to help build their capacity to expend funds, we will work with the Committee on possible statutory amendments that would provide HUD additional tools to ensure the timely expenditure of IHBG funds by all grantees.

We look forward to working with the Committee and staff to refine S 1352 to support the goal we share of meeting the housing needs of American Indian and Alaska Native families, and playing an integral part in building sustainable Indian communities. Thank you.

The CHAIRWOMAN. Thank you, Assistant Secretary Henriquez. Thank you for being here.

President Keel, thank you for being here.

**STATEMENT OF HON. JEFFERSON KEEL, PRESIDENT,  
NATIONAL CONGRESS OF AMERICAN INDIANS**

Mr. KEEL. Thank you, Madam Chair. Good afternoon, Senators, members of the Committee. I appreciate the opportunity to appear before you on behalf of the National Congress of American Indians, this opportunity to testify about our views on S. 1352, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2013. It is certainly an important bill for us.

The enactment of the Native American Housing Assistance and Self-Determination Act in 1996 was rightly seen as a significant event in the history of Indian housing, because NAHASDA consolidated a number of existing programs into the Indian Housing Block Grant. As a tribal leader, I have seen what self-determination has achieved for my tribe, and other tribes, as we address our housing and infrastructure needs in a way that best meets the needs of our citizens.

NAHASDA has enabled us to design and implement innovative housing programs and to leverage those dollars with tribal and private resources. NCAI has worked with tribal governments and the National American Indian Housing Council to find solutions that strengthen and improve housing infrastructure in Indian Country.

NCAI supports Section 101 regarding the treatment of program income and labor standards. This provision strengthens tribal self-determination and enables tribes to respond most effectively to local economic conditions by clarifying language that allows tribes to apply their own adopted prevailing wages instead of macro wages and to maximize employment opportunities for their tribal members when implementing NAHASDA projects.

NCAI strongly supports the amendments contained in Section 102 as it promises to expedite housing projects, improve efficiencies and eliminate wasteful duplicative environmental reviews. One of the innovations of NAHASDA was to allow tribes to exercise environmental review requirements that would otherwise be carried out by HUD. Tribes have utilized these provisions to build their capacity and improve the efficiency of their housing programs.

However, in many housing projects in Indian Country involving funding and/or review by various Federal agencies, there are additional overlapping and redundant environmental review requirements imposed by the Bureau of Indian Affairs, Indian Health Service and/or the Department of Agriculture. The resulting administrative and legal costs in doing so take funds away from constructing houses and cause unnecessary delays for critical housing projects. This section will save time for the tribes developing housing projects and will save both Federal and tribal resources. It is a critical change to ensure efficient development of tribal housing projects.

Section 401, demonstration of rental assistance for homeless or at-risk Indian veterans, I have to say that as a veteran myself, it is absolutely disgraceful, in my opinion, that in this great Country we have to use homeless and veterans in the same sentence. NCAI expressed initial concern with this demonstration that the resources were carved out from the overall NAHASDA program. After further discussion with the staff of the Committee, we understand this program will use funds from HUD VASH and will complement the Senate appropriation language regarding the HUD VASH setaside. NCAI looks forward to working with this Committee on this important issue. I applaud the intent of Section 401 to ensure tribes have access to funding for rental assistance for these homeless or at-risk Native veterans.

NCAI strongly supports the amendments contained in Section 404. This provision is a top priority of NCAI's tribal tax working group, and is supported by NCAI and our partners.

In addition to our position on the provisions outlined above, NCAI's written testimony includes specific recommendations that the Committee consider the following areas of emphasis that will ensure success of NAHASDA. We urge the Committee to ensure that the NAHASDA reauthorization considers strategies to ensure the Section 184 Indian Home Loan Guarantee program meets its intended focus of expanding home ownership on tribal trust lands, expands lending and housing developments through the HEARTH Act, ensure that integrated planning is an eligible activity under NAHASDA, and ensure ongoing data collection and analysis that supports tribal housing.

In conclusion, I would like to thank this Committee for the opportunity to appear before you. As the President of NCAI, I can assure you that this is one of the most important bills that we will be working on. We look forward to working with you. Thank you.

[The prepared statement of Mr. Keel follows:]

PREPARED STATEMENT OF HON. JEFFERSON KEEL, PRESIDENT, NATIONAL CONGRESS  
OF AMERICAN INDIANS

On behalf of the National Congress of American Indians (NCAI), thank you for the opportunity to provide testimony about our views on S.1352, The Native American Housing Assistance and Self-Determination Reauthorization Act of 2013. NCAI looks forward to working with the Committee to ensure recommendations coming out of the Committee's hearings process take into account the housing needs of Indian Country.

The 1996 enactment of the Native American Housing Assistance and Self-Determination Act (NAHASDA) was rightly seen as a significant event in the history of Indian housing. NAHASDA consolidated a number of existing programs into the Indian Housing Block Grant (IHBG). This system drew lessons from the success of other self-determination and self-governance programs. These programs in diverse areas—from health to natural resources to economic development—had demonstrated the positive impact of empowering tribes to more effectively develop, implement, and manage strategies to meet the specific needs of their community. The history of NAHASDA has shown the positive impact of empowering tribes to develop strategies that meet the needs of their communities.

NAHASDA has transformed how Indian housing programs recognize tribes' authority to make their own business decisions and this 2013 reauthorization addresses the majority of the housing programs that serve Indian Country. Tribes have made strides in addressing housing and infrastructure conditions in Indian Country through developing and managing their own programs and in many cases leveraging NAHASDA dollars with tribal dollars. This flexibility is even more important given the changed economic environment since 1996, and the various policy developments that hold significant potential to enhance housing development in Indian Country. NCAI has worked with tribal governments and the National American Indian Housing Council to find solutions that strengthen and improve housing infrastructure in Indian Country.

NCAI's comments regarding S. 1352, The Native American Housing Assistance and Self-Determination Reauthorization Act of 2013 are outlined below. The first section addresses provisions in the bill itself, the second section identifies additional areas of opportunity for the Committee's consideration.

### **Section I: Analysis of S. 1352**

#### *Title I—Block Grants and Grant Requirements*

- Section 101. Treatment of Program Income and Labor Standards

NCAI supports this important provision as it strengthens tribal self-determination and enables tribes to respond most effectively to local economic conditions.

This language provides clarification that NAHASDA recipients satisfy federal labor requirements when applying tribal adopted prevailing wage rates to fund NAHASDA projects. The use of prevailing wages instead of macro-wages is a critical distinction to ensure tribes have the flexibility to maximize job creation at the local level. For example, a Montana tribe who received American Recovery and Reinvestment Act funding applied their tribal adopted prevailing wages so they could maximize employment for tribal members. The tribe was able to offer numerous quality jobs for tribal members—in a reservation facing significant challenges with unemployment—paying between \$16 to \$18 per hour. Average wages in the nearest city at that time (macro wages) stood between \$20 to \$22 per hour. If the tribe was compelled to apply macro wage standards the result would have been less jobs to address the unemployment crisis in that community. This provision enhances NAHASDA's purpose to strengthen tribal self-determination by acknowledging tribes are best positioned to develop strategies to meet the needs of their communities.

- Section 102. Environmental review

NCAI strongly supports the amendments contained in Section 102 as it promises to expedite housing projects, improve efficiencies, and eliminate wasteful duplicative environmental reviews.

One of the innovations of NAHASDA was to allow tribes to exercise environmental review requirements that would otherwise be carried out by HUD. For those tribes that have the capacity in-house to conduct environmental review, it is both an exercise of the tribe's sovereignty and administratively more efficient to have such reviews carried out by the tribe. Under the NAHASDA regulations, where a tribe does assume environmental review responsibilities, it must do so in accordance with the applicable HUD environmental review regulations at 24 CFR parts 50 and

58. Many tribes and TDHEs have built their capacity to carry out environmental reviews consistent with the HUD-mandated process.

However, because many housing projects in Indian Country involving funding and/or review by various federal agencies, in a number of cases there are additional, overlapping, and redundant environmental review requirements imposed by federal agencies including the Bureau of Indian Affairs, Indian Health Service (IHS), and/or Department of Agriculture (USDA). The Bureau of Indian Affairs in exercising their authority to review and approve residential leases on trust lands may require environmental review. Further, when tribes or TDHEs leverage their NAHASDA funds by using grant funds from other federal agencies (such as the IHS or USDA—Rural Development), that agency's environmental review requirements will also apply. Thus, tribes and TDHEs in such circumstances will be required to undertake three different environmental reviews—all of which are intended to meet the same federal statutory requirements under the National Environmental Policy Act—because each federal agency has its own guidelines and procedures. The resulting administrative and legal costs in doing so take funds away from constructing houses and causes unnecessarily delays for critical housing projects. This section will save time for the tribes developing housing projects and will save both federal and tribal resources. It is a critical change to ensure efficient development of tribal housing projects.

*Title IV—Other Housing Assistance for Native Americans*

- Section 401. Demonstration of rental assistance for homeless or at-risk Indian Veterans

NCAI expressed initial concern with this demonstration if the resources were carved out from the overall NAHASDA program. After further discussion with the staff of the Committee, we understand this program will use funds from HUD-VASH and will complement the Senate Appropriations language regarding the HUD-VASH set-aside. While NCAI understands the intent of Section 401 to include Native veterans in Indian housing programs, NAHASDA already enables tribes and tribal housing authorities to provide housing services to Native American veterans including rental and homeownership services.

NCAI sees significant potential in the demonstration and hopes that HUD-Veterans Affairs Supportive Housing Program (HUD-VASH) will create a program to address the problem of veteran homelessness who live on tribal lands and are homeless or at-risk of homelessness. NCAI supports this demonstration to address homelessness among Native American veterans equipping HUD, VA, and HUD Office Veterans Affairs to address this issue by using funding from HUD-Veterans Affairs Supportive Housing Program, a program that has already demonstrated success in decreasing veterans' homelessness by 17 percent since 2009.

- Section 404. Preference for projects in Indian areas

NCAI strongly supports the amendments contained in section 404. This provision is a top priority of NCAI's tribal tax working group and is supported by NCAI and our partners. The amendments to the Low Income Housing Credit ensure access to a critical leveraging tool to develop housing on tribal lands. Some tribes have faced barriers in accessing the tax credit due to misunderstanding by state governments in allocating their credits. NCAI fully supports this provision because it appropriately inserts projects located in "Indian areas," as defined in Section 4 of NAHASDA, within the selected projects given preference under a "qualified allocation plan."

**Section II: Ensuring the Success of NAHASDA**

In addition to our position on the provisions outlined above, NCAI urges the Committee to consider the following areas of emphasis that will ensure the success of NAHASDA. Emphasis on these areas will ensure that NAHASDA reaches its full potential to advance economic opportunity and strengthen self-determination.

- Section 184 Indian Home Loan Guarantee Program

Section 184 of the Housing and Community Development Act of 1992 began to address one of the fundamental challenges faced by Indian housing—the lack of private mortgage financing. The program provided an assured federal payment of 100 percent of an outstanding mortgage balance if a borrower defaulted on his/her loan. The program authorizes the BIA and HUD to approve borrowers and land leases in order to guarantee loans from private lenders to Native American families, tribes, and housing authorities. The home and the leasehold interest in the home site are mortgaged and are subject to liquidation in case of foreclosure, although eligible tribal members, the tribe, or the relevant Indian Housing Authority are first offered a chance to assume the leasehold interest and continue payments. In order to par-

ticipate in HUD mortgage guarantee programs, HUD must review the tribe's legal ordinances which include: leasing, mortgage lending, eviction and foreclosure as well as the code enforcement process through the tribal courts system or another court of competent jurisdiction (designated by the tribe).

Using Section 184, Indian tribes or tribal members can purchase an existing home; obtain single-close construction loans for stick-built or manufactured homes on a permanent foundation; obtain rehabilitation loans; or obtain both a purchase and rehabilitation loan. In 2004, HUD expanded the Section 184 program to allow tribes to petition the agency for the right to extend their service area or "Indian Area" to include Native-owned homes off-reservation. These off-reservation units exist in areas where a particular tribe traditionally resided or where significant members now live. As a result, certain tribes can now apply the Section 184 program to all of their members residing within a particular state instead of just within their reservation's borders.

The Section 184 program is one of the most successful homeownership programs for Indian Country and is a model for other homeownership programs. Since the program was established, there have been almost 22,000 Section 184 transactions totaling \$3.5 billion in loans that serve Native borrowers. According to the most recent figures from HUD, these loans include 2,656 transactions on tribal trust lands totaling \$290 million; 526 transactions on allotted land totaling \$73.6 million; and 18,760 transactions on fee simple land totaling \$3.15 billion. Based on these numbers, tribal trust and allotted land transactions make up only 14.5 percent of Section 184 transactions. NCAI continues to be concerned that a significant proportion of Section 184 loans are not on tribal trust or individual trust lands, contrary to the original intent of Section 184 to increase homeownership on tribal lands. NCAI urges the Committee to consider the following challenges to increasing Section 184 loans on tribal trust lands:

1. *Financial Investors and Institution:* Especially given the tightening of mortgage markets and challenges faced by the financial sector in general since the financial crisis, it is imperative that Congress address the limited access to capital on tribal lands. The most recent available data note that 86 percent of Native communities lack access to a single financial institution. This absence presents significant challenges to attracting investors and securing home mortgages in Indian Country. This challenge has long-term implications for the overall economic health of tribes given that the final report of the President's Council on Financial Capability noted that the lack of well designed and accessible financial products and services challenges the capacity to enhance financial capabilities.

2. *Financial Capabilities:* NCAI strongly advocates for tribes to enact comprehensive programs and policies that promote increased financial capability for tribes and for Native peoples—and for Congress to assure that the resources to do this are included in the NAHASDA reauthorization. Increased financial capability is a foundation for building permanent assets to strengthen their communities' economies. Housing programs offer a critical opportunity to include programs and policies that directly address individual's ability to become financially literate and make more informed financial decisions for themselves and their families.

3. *Leasing Regulations:* As outlined below, the July 2012 passage of the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act presents a critical opportunity for HUD to expand housing development utilizing expedited leasing processes. This effort will require close coordination with the Bureau of Indian Affairs and consultation with tribes to ensure effective implementation. NCAI believes that streamlined leasing will increase Section 184 loans on reservation, and enable potential tribal homeowners to successfully meet requirements used by financial lenders to process and complete home mortgage loan applications.

- **Expanding Lending and Housing Development through the HEARTH ACT**

The HEARTH Act presents the opportunity for tribes to lease restricted lands for residential housing, and will spur homeownership on tribal lands for middle class tribal communities. The new law is focused on Indian housing, and authorizes surface leasing of tribal lands without approval from the Secretary of the Interior. Instead, tribal leases can be approved by the tribe under tribal leasing regulations. The new law will enable tribes to move more quickly on leasing and economic development, while maintaining the Secretary's trust responsibility to oversee trust lands. The BIA has already approved several tribal leasing codes, but much more

work is needed to implement the law and ensure that all tribes are able to take advantage of its opportunities.

First, tribal leasing codes under the HEARTH Act must be developed and made consistent with the BIA's recently updated leasing regulations, 25 C.F.R. 162. The BIA has also published a National Policy Memorandum containing a list of criteria that should be considered. Key requirements include leasing code development and an environmental review process. Many tribes will need technical assistance and staffing not only in developing codes, but also in the review and approval processes. As the NAHASDA legislation moves forward, we would encourage the Committee to authorize the use of NAHASDA funds for this purpose.

- Ensure integrated planning is an eligible activity under NAHASDA

Tribes may already use NAHASDA funds for the basics of planning for housing, including related infrastructure like water, power and sewage. However, NCAI encourages the Committee to make more planning resources available to integrate housing planning with all other planning for economic development and jobs, education, transportation, agriculture and food, and the development of communities with health active lifestyles.

In Indian Country, there is a growing emphasis on planning for economic development and jobs and recognition of the importance of business agglomeration. Industries tend to cluster in certain regions, and it is important for tribes to plan and build businesses and jobs that complement their existing strengths.

Tribal industries tend to cluster in certain areas such as:

- Gaming/Hotel/Recreation/Entertainment
- Agriculture, Oil & Gas, Timber
- Commercial Real Estate
- Government Contracting—638 and 8(a)
- Retail—Indian owned and taxed businesses
- Housing
- Roads
- Health Care
- Education
- Law Enforcement
- Native Arts & Crafts

All of these industries create jobs and create a demand for local housing. By the same token, there is a need for job creation for the Native people who live in Indian housing. Greater integration of housing and economic development planning is needed.

In addition, as tribal communities grow, it is essential to look at economic and environmental realities in order to make critical decisions about our future. That means tribal planning must address issues such as climate change, peak oil and food insecurity. Food and energy consume huge portions of tribal economies and must be considered in relation to tribal self-determination. The new millennium is a time when we are facing the joint challenges of an industrial food system and a centralized energy system, both based on fossil fuels, and both of which are damaging the health of our peoples and the Earth at an alarming rate. Tribal communities have long supplied the raw materials for nuclear and coal plants, huge dam projects, and oil and gas development. These resources have been exploited to power far-off cities and towns, while many tribes remain deficient in sources of heat or electricity.

Tribal communities also laid the groundwork for agriculture on this continent. Yet today, tribes produce less and less of their own food and instead rely upon imported foods. This is not a sustainable way to ensure the stability of our tribal communities, our environments and our cultures. NAHASDA should support more planning for the linkages of housing, jobs and lifestyles and support tribal efforts to create sustainable energy and food economies for this millennium and for the generations yet to come. Planning supports the creation of local economies, using the resources available to each Indigenous community.

- Ensure ongoing data collection and analysis that supports tribal housing

As the Committee is well aware, tribes and tribal housing entities face significant challenges in accessing current and reliable data to develop the most effective housing strategies to meet the needs of their people. This challenge is certainly partially the responsibility of HUD—the most recent Native American Housing Needs Study was completed in 1999—but the problem also extends to other agencies. The three most prominent examples are:

1. the American Community Survey poses significant data quality challenges at the local level with the concerns identified by rural and remote communities being even greater in Indian Country;
2. the 2001 Native American Lending Study, conducted by the Department of the Treasury's CDFI Fund, provides critical data about access to capital and is yet to be updated, 12 years since its publication; and,
3. the Bureau of Labor Statistics (BLS) essentially excludes data from Indian reservations in the monthly labor force reports, and there is a wide discrepancy between DOI labor force reports and those presented by BLS.

NCAI urges the Committee to explicitly include regular data collection and analysis in the 2013 NAHASDA reauthorization. As noted above, there are challenges of timely data collection, but there are also some challenges that could be addressed simply through more effective interagency coordination. It is also clear that there are several data reports required by HUD that are not analyzed or provided to tribes to assist in developing the best housing strategies.

One solution that NCAI has proposed to address this challenge would be to provide a clearinghouse to provide tribes and tribal housing entities with access to pertinent data collected by the Federal Government. As the President has noted in his "open government" strategies, access to data can enable more effective policy development. Similar to the information collected and provided through the *Recovery.gov* clearinghouse, HUD could partner with other agencies to provide tribes and tribal housing entities with access to data that can support effective policy making. This initiative could also map existing data requirements and ensure data reports that are required of tribes to ensure the requirements are useful to tribes and the Federal Government in developing housing policies.

#### **Conclusion**

NCAI thanks the Committee for its commitment to the important goals of tribal self-determination through flexible and effective housing policy. We look forward to working with the Committee throughout the reauthorization of NAHASDA to ensure the reauthorization takes the steps necessary to enable tribes to improve the housing condition for their tribal communities and effectively respond to the changed economic environment.

The CHAIRWOMAN. Thank you, President Keel. Thank you for your testimony.

Before I go to questions by numbers, I wanted to point out on our agenda we were going to hear from the Chairwoman of the Fond du Lac Tribe, who is unable to make it here today, a last minute emergency situation. So I was wondering if Senator Franken wanted to make a statement now on behalf of that bill.

#### **STATEMENT OF HON. AL FRANKEN, U.S. SENATOR FROM MINNESOTA**

Senator FRANKEN. Sure. I think Ms. Harris spoke to it very well, so maybe I can speak to it when it gets to my turn to ask questions. I would like to thank Ms. Harris. Chairwoman Diver couldn't make it today, and it is too bad, because she is wonderful.

The CHAIRWOMAN. Good. Thank you.

Well, let's turn to questions, then, and President Keel, you mentioned some things aside from S. 1352 that you think we should be doing. First of all, thank you for your service to our Country. I think you articulated with passion this issue as it relates to our veterans.

Are there other things you think we need to do? Because the hearing that this Committee had on the housing issue, I can say, just about everybody who was here expressed some level of frustration at the state of housing in Indian Country.

Mr. KEEL. I think you have heard from others previously that housing, safe, affordable housing in Indian Country is in dire need.

You have heard that there are over 200,000 units that are needed right now. Tribes have been able to develop programs to best suit their needs in Indian Country or in their own communities. But oftentimes there are so many regulations that are imposed that it becomes very discouraging and time, well, we just run out of time.

The CHAIRWOMAN. What about that, Assistant Secretary Henriquez, this issue of, for example, the major Federal partners program and streamlining that? More efforts to allow housing to happen more quickly?

Ms. HENRIQUEZ. I do believe that I would agree with the Chairman. I believe that what we need to do across Federal Government is really look to see what all of our programs do and where the gaps are and then figure out, like we were suggesting in environmental, to streamline so that we can, across the Federal Government, accept each other's reports or decide that there is one report we will all accept, so that we can streamline both for ourselves, but more importantly, for our partners in Indian Country who want to make sure that the resources go as far as possible.

The CHAIRWOMAN. What about waiver requests? We heard even at our hearing that waiver requests were slowed down, not a very timely response.

Ms. HENRIQUEZ. From our experience at HUD, for example, on the total development cost, in the past three years we have had three waivers to exceed the 10 percent. We have approved those three. We have not been aware that they have held up any of the construction-related opportunities that they were meant to remedy.

So we do them on a case by case basis. But we understand timeliness. We understand in some places in Indian Country it is more costly, you lose a construction season and so on. So if there are specifics, we would like to hear what those are, but we have not seen them yet come across our desks.

The CHAIRWOMAN. Okay. We will be glad to get some of those specifics for you.

Ms. HENRIQUEZ. Thank you.

The CHAIRWOMAN. Ms. Harris, you mentioned your support of the Senate Bill 920, and obviously, if we pass this legislation, how long will it take for us to actually see the land transfer? Is this something that can be timely done? Because obviously this negotiation has been going on for a long time. So obviously, the ease of passage of this legislation, we would assume that that land into trust would be done in a reasonable time frame. Do you have any comments on that?

Ms. HARRIS. Certainly. It is difficult to predict exactly how long it would take to put the land into trust. But if and when the tribe does submit a fee to trust application, the Department would certainly work expeditiously to take the land in trust for the tribe as we do with all fee to trust applications. Acquiring land in trust for Indian tribes is our mission and it has been a priority.

The CHAIRWOMAN. So on something like this, when an agreement has been reached, are we talking a year or years, less than five years?

Ms. HARRIS. I can't predict how long it would take. It really just depends on the application. There are a number of criteria that we

consider under our regulations. We would work expeditiously to work through those criteria.

The CHAIRWOMAN. But one of the reasons why we are passing this legislation is obviously to clear up some of the issues that might have to be sorted out.

Ms. HARRIS. I understand. I am happy to speak with the folks at the Bureau of Indian Affairs and get back to you.

The CHAIRWOMAN. That would be great. We would love a general time frame. The Committee is trying to understand, on a lot of different issues, what the process and time frame is so that we have a clear understanding.

Mr. MCSWAIN. obviously the Consortium, how much will the Consortium save in outside contracts when the residential facility is built?

Mr. MCSWAIN. That is a question I will defer to Mr. Teuber. He mentioned that he had a fair amount of costs, just in the tribal people. It sounds like a lot of housing that he has to provide in the absence of that. I defer to Mr. Teuber to answer that question.

Mr. TEUBER. Yes, thank you. I believe the annual sum is estimated for this year to be \$4.5 million for outside contracts that we are using for local Anchorage-based hotels.

The CHAIRWOMAN. Okay. So very cost efficient process to build the facility?

Mr. TEUBER. That is correct. I think that the opportunity before us is one where we can provide a more culturally appropriate setting for our expectant mothers, for those who are traveling in with traumatic injuries, for the convenience. Anchorage can sometimes be a difficult place for Alaska Natives who come from rural parts of the State to navigate in order to receive their services at ANMC.

The CHAIRWOMAN. Okay. Vice Chairman Barrasso?

Senator BARRASSO. Thank you, Madam Chairman.

Questions for Jefferson Keel. Everyone here knows your service as a former Army Ranger. You are a decorated military veteran, we are so grateful for your service and for what you continue to do for this Country. I know that you are quite familiar with issues facing our Nation's veterans, and you specifically spoke to that.

S. 1352 includes a demonstration project to assist Indian veteran housing. It allows tribal housing programs to use current administrative infrastructure to operate the HUD Veterans Affairs Supportive Housing voucher program. You talked about running out of time, trying to use different programs. I am wondering if you think the current tribal administrative infrastructure needs to be adjusted to operate this voucher program?

Mr. KEEL. Thank you, Senator. I believe that there are, first of all, we do support the demonstration project. I think that is a very important project. As soon as we can get that in place, it would be a tremendous advantage. I think there are times when many of our people don't qualify for some of these vouchers. Sometimes there is a misunderstanding between the access to those vouchers between the State. Some of the housing authorities are chartered under State law. Therefore we have to go through the State administration to get our veterans applied to this. I think that will be clarified by this.

Senator BARRASSO. One of the components of this demonstration project for the Indian veterans requires that the tribal grantees provide information to the Secretary of HUD to assess the project's effectiveness. I am wondering how you think the effectiveness of this demonstration project should really be determined.

Mr. KEEL. That is very difficult to say until it actually begins. But I would think that there are a number of tribal housing authorities across the Country that have, there are a number of tribes that have developed programs already to assist these veterans in their own communities. So I think that reaching out to them for information and their input would be very helpful.

Senator BARRASSO. Thank you. Thank you, Madam Chairwoman. The CHAIRWOMAN. Senator Tester?

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

Senator TESTER. Thank you, Madam Chair. I want to thank you and Ranking Member Barrasso for introducing, along with a bunch of co-sponsors, myself included, the NAHASDA bill. My questioning is going to focus on that.

I am going to start with you, Sandra Henriquez. Thank you for being here. There are statistics out there that show that American Indians suffer from homelessness and severe housing needs, such as overcrowding, lack of plumbing, heating, electricity. Have you seen those statistics?

Ms. HENRIQUEZ. I have seen the statistics; more importantly, I have seen the housing.

Senator TESTER. Perfect. What do you see as your role in improving that situation?

Ms. HENRIQUEZ. I think there are several things. I think my role is, one, to both advocate for the program, to advocate for funding for the program, and to advocate for a set of rules, regulations, that streamline the operations, so that money can be used more effectively by the tribes.

Senator TESTER. Good. Did you have money set aside for Indian housing directly? Is there a carve-out for that in your budget?

Ms. HENRIQUEZ. There is a line item in the HUD budget for Native American, Native Hawaiian and Native Alaska housing.

Senator TESTER. How much is in that line item?

Ms. HENRIQUEZ. I think with the President's 2014 request, I think it was about \$650 million.

Senator TESTER. So if you are a tribe in, let's say the Crow Indian Reservation in Montana, how do they get access to that money?

Ms. HENRIQUEZ. It is done by formula. And the formula is done through a consultation, negotiated rulemaking process. The last consultation and formula happened a number of years ago. In fact, by the end of August, we will start a new one. It is all formula driven by membership.

Senator TESTER. So each tribe right now there is a formula out there that each tribe, and I assume Alaska Natives and Hawaiian Natives would be in the same boat?

Ms. HENRIQUEZ. Alaska Natives are. Hawaiian Natives are in a different allocation.

Senator TESTER. Okay. That is fine. So each tribe gets X number of dollars, is that the way it works?

Ms. HENRIQUEZ. Correct, based on their size and membership enrollment.

Senator TESTER. Based on population or based on land mass?

Ms. HENRIQUEZ. Based on population.

Senator TESTER. Okay. And when was the last time that that formula was looked at?

Ms. HENRIQUEZ. Five years ago, I am being told, sir.

Senator TESTER. And then I assume it is updated with every census?

Ms. HENRIQUEZ. We will be going into it again at the end of this month, I am sorry, at the end of August, we will start formal negotiations again with tribes.

Senator TESTER. There is \$650 million in that fund. Realistically, just realistically, how many dollars should be in that fund?

Ms. HENRIQUEZ. I don't know how to answer that question. I would say this. We are currently conducting a housing needs survey in Indian Country, which will help us quantify what the need is. The 200,000 number that we have right now we think is probably low. We think the need is significantly greater.

Senator TESTER. When do you anticipate that needs survey to be back?

Ms. HENRIQUEZ. We are probably a year away. We started the survey instrument in collecting and training and have asked other tribes as well to use the survey and submit it to give us more information.

Senator TESTER. I certainly hope that that will be distributed to this Committee when it is done.

Ms. HENRIQUEZ. Yes, sir.

Senator TESTER. Very good, thank you. A number of the Plains Tribes have contacted me, there are concerns about training and technical assistance dollars. Are you familiar with this fund?

Ms. HENRIQUEZ. Yes.

Senator TESTER. They argue that NAHASDA's original negotiated rulemaking determined that the spirit and intent of NAHASDA was to deliver training and technical assistance through the National American Indian Housing Council. However, administrators tell me this process has changed. Has it changed?

Ms. HENRIQUEZ. Yes, sir. It changed in the fiscal year 2013 appropriations language. It directed us to initiate competition for organizations and contractors with experience in Indian housing to provide services.

Senator TESTER. So that was done in 2013?

Ms. HENRIQUEZ. Yes.

Senator TESTER. HUD approps?

Ms. HENRIQUEZ. Yes, sir.

Senator TESTER. Okay, thank you for that.

We have a little bit of time left. I am going to go to Jefferson Keel. Jefferson, you represent NCAI, you represent, and correct me if I am wrong, about 560 tribes, somewhere around there?

Mr. KEEL. Yes, sir.

Senator TESTER. Could you give me an idea, number one, are they pretty well united behind NAHASDA? Are there issues that

they have with this bill generally speaking that are systemic? Or are they pretty happy with the way it is designed?

Mr. KEEL. Generally speaking, I believe that across Indian Country, Indian Country is united that NAHASDA does definitely need to be reauthorized.

Senator TESTER. Okay. I just want to thank you all for your testimony. I appreciate it. I am sorry I didn't ask the other three questions, but, next time.

The CHAIRWOMAN. Senator Franken.

Senator FRANKEN. Thank you, Madam Chairwoman, for holding this hearing. Thanks to the Vice Chairman.

I want to thank Ms. Harris for her testimony, all the witnesses. As you mentioned, Chairwoman Karen Diver was supposed to be here today. She couldn't make it, and she was going to talk about this bill, S. 920. So I ask that her testimony be added to the record.

The CHAIRWOMAN. Without objection.

Senator FRANKEN. Thank you.

I would like to briefly describe the bill. S. 920 would allow the Fond du Lac Band of the Ojibwe in Minnesota, transfer its lands at its own discretion, it is a tract of land. Basically their land is checkerboarded. This would just be exchanging land with the county, Carlton County, that is outside the reservation. Carlton County would get that. The tracts of land are of equivalent value. And it has to be done this way, because the law that is relevant here prohibits any "purchase, grant, lease or other conveyance of lands or of any title or claim to thereof from any Indian nation or tribe of Indians unless authorized by Congress."

So we just have to pass this, and that is what we have to do, right, Ms. Harris?

Ms. HARRIS. Right.

Senator FRANKEN. And you guys are for this?

Ms. HARRIS. Yes. We are certainly for this.

Senator FRANKEN. It is non-controversial.

Ms. HARRIS. Right.

Senator FRANKEN. This is just allowing these things that are of equal value, for Fond du Lac to get land within its reservation back that it can build houses on and also use for hunting and stuff like that. I just want my colleagues to know this is really a non-controversial piece of legislation. I will move on.

Assistant Secretary Henriquez, as you know, Minnesota tribes have been leaders in providing services to Native American veterans. One thing, Native Americans volunteer for military service at a higher rate than any other ethnic group in the Country.

Ms. HENRIQUEZ. That is correct.

Senator FRANKEN. And the Fond du Lac Band just held a grand opening for a new development to provide 10 units of supportive housing for Native American veterans. This is the first project, as I understand it, in the United States that specifically addresses the needs of homeless veterans on a reservation.

I support the provision in the reauthorization of the Native American Housing and Self-Determination Act that will help tribes better access funding through the HUD Veterans Affairs Supportive Housing program. Let me ask you, how would your admin-

istration help innovative tribes like the Fond du Lac access this program?

Ms. HENRIQUEZ. Let me start by saying that the VASH program, as you know, is done with HUD in conjunction with the Veterans Affairs. They provide the referrals of veterans to housing authorities. Our intent is to replicate that program, not to make it more complicated. We talked about a demonstration, we asked the Veterans Affairs if they could identify for us where they would do referrals in Indian Country. They have a program with Indian Health Services to act on their behalf. We think that there is plenty of need. We want to be able to streamline it, provide greater access to a source of funds for rental assistance that tribes have not had access to before.

Senator FRANKEN. Thank you. This is for Chairman Keel. As we consider reauthorizing the Native American Housing and Self-Determination Act, I think it is important for everyone to remember that homelessness in our tribal communities often doesn't look like homelessness in other parts of the Country. In Indian Country there aren't a lot of emergency shelters or transitional housing. Those who need help often are taken in by other members of the community, which can lead to overcrowding.

That also makes it hard to measure the true level of need in Indian Country. When we can't measure the true level of need, it is difficult to secure the resources to improve access to safe and affordable housing.

So my question, Chairman Keel, is can you talk to me about some of the ways tribes have worked to document the need for affordable housing in their communities? How can the Federal Government support efforts to get an accurate measure of the true level of need in Indian Country?

Mr. KEEL. Thank you, Senator, for that question. You described it very well. Many times in Indian Country, in our communities, homelessness is not really officially documented, because we have family and friends who will come and stay, they have no other place to go, and their families are not willing to put them out on the street. So they actually become residents of that shelter or that home.

So we may have upwards of two or three families occupying one building or a home that is designed to accommodate one family. Even in our housing authority, and HUD, our homes are built two or three bedroom. Very few four bedroom to accommodate larger families. And so again, it is very, very difficult to document.

But in many of our communities, we utilize our community health representatives, the CHRs and other tribal employees, and community health nurses and those folks, to help us acquire or get the documentation that is needed. Then we assist those families in going and applying for housing.

Another issue is that many of our families don't qualify because of either income guidelines, there is a catch-22. If you have no income you don't qualify for housing. But you can't have income if you don't have a job. In many of our communities, the jobless rate, the high unemployment rates in many of our communities is sometimes upwards of 25, 30, 50 percent in some communities. That is very hard to document.

So it is a revolving cycle. But again, we utilize our tribal employees, many of our health representatives, our veterans assistance programs and even just family members to come and help provide some of that documentation.

Senator FRANKEN. Thank you. Thank you, Madam Chairman.

The CHAIRWOMAN. Senator Johnson?

**STATEMENT OF HON. TIM JOHNSON,  
U.S. SENATOR FROM SOUTH DAKOTA**

Senator JOHNSON. Mr. Henriquez, housing needs in Indian Country, I am concerned about unspent NAHASDA funds. Have you found that unspent funding is a widespread issue or one that is attributable to just a few agencies? What steps has HUD taken to address this issue?

Ms. HENRIQUEZ. Thank you, Senator, for the question. First, I want to say that it is important for everyone to realize that most tribes, the vast majority, get their allocations and spend it and spend it in a timely way. Until recently, there was no time frame in which housing agencies or tribes had to obligate their money. As of 2012, there is now a five-year obligation deadline.

That said, the monies put into our control system for housing authorities to draw down, for tribal agencies to draw down, the oldest money gets drawn out first, so that we try and make sure that people are staying as current as possible. We have also implemented new reporting requirements through the last negotiated rule-making. That gives us a fuller picture and we continue to take enforcement actions where we are noticing that spending habits and patterns are not consistent with both need and with the plans that the tribes file for themselves.

Senator JOHNSON. Ms. Henriquez, as Paul Iron Cloud from Pine Ridge noted at a recent hearing, tribes in South and North Dakota have undertaken a Dakota housing needs assessment pilot project in order to get population and needs data to counter less accurate census numbers. What obstacles do tribes face to use this data in lieu of census data for purposes of the housing formula?

Ms. HENRIQUEZ. I can't think of any obstacles. In fact, we are conducting a housing needs survey, and we have asked tribes, such as Pine Ridge, to contribute the work they are doing in their own tribes to augment the survey that we are taking, that is being done by the Department. We think that pulling both the statistically significant sample that we are doing along with the information that the tribes are collecting and sharing with us, will give us a very broad and better picture of the need of what housing is required in Indian Country.

Senator JOHNSON. Ms. Henriquez and President Keel, are there tools HUD needs from Congress in order to assist tribes in leveraging their NAHASDA funds with private and other Federal sources of funds?

Ms. HENRIQUEZ. Thank you, sir. It is a great question. I should say that what we need is the expansion, the use of tax credits in Indian Country, using those as a development tool to get other people's money into the mix to augment Federal dollars, so those dollars would go farther. It would help stimulate both economic development, increase housing. Increasing housing is an economic driver

as well, but also to put in place much-needed housing for tribes on reservation land.

I also think that we need to encourage the banks to do business in Indian Country. When I do an event in Indian Country, I always see who has been funding a particular housing project that has been built, and I ask those bankers and investors to please go talk to their colleagues in the business to get them to understand that these are dollars well invested, will be well spent, will be cared for. It is a good risk, it is a worthy risk, and that they should think about expanding their business models into Indian Country as well.

Senator JOHNSON. President Keel?

Mr. KEEL. Yes, sir, thank you, Senator, for that question. The idea that, well, first of all, in Indian Country, Indian tribes lack access to capital. The limited number of financial institutions or lending institutions or investors really inhibits our ability to develop programs that will accommodate our citizens.

The most recent data that we have has noted that 86 percent of Native communities lack access to a single financial institution. That is incredible. So we would ask that the President's Council, now, this new Council on Indian Affairs, would address that and take that across all Federal agencies.

We also believe that the HEARTH Act will assist in the tribal leasing laws, so that tribes can develop then their own systems and accommodate that.

The final thing would be the HUD 184 loan program that allows tribes to, or individual homeowners, to access loans to build homes.

Senator JOHNSON. To what degree does trust status and Indian law impact the lack of financial institutions in Indian Country?

Ms. HENRIQUEZ. Thank you, Senator. I do believe that having trust land in the mix in terms of developing housing makes it harder for financial institutions just to understand the model. I think if they just spent time understanding the model, understanding that it doesn't increase the risk, that they would be more comfortable over time seeing it work and having examples that are successful.

Senator JOHNSON. Thank you, Madam Chairman.

The CHAIRWOMAN. I want to thank all the members of the Committee for their presence today, and for the witnesses being here and your testimony. All three of these pieces of legislation are important to the Committee and we look forward to moving them when we return in September. This hearing is adjourned.

[Whereupon, at 3:52 p.m., the hearing was adjourned.]

## A P P E N D I X

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

I want to thank the Chair and Vice-Chair for holding this important hearing today to consider three important legislative measures. I especially want to thank Senator Cantwell and Senator Barrasso for their strong leadership in introducing and holding a prompt hearing on, S. 1352, a bill to reauthorize the Native American Housing and Self-Determination Act (NAHASDA) through the end of fiscal year 2018. I strongly support NAHASDA reauthorization and share the high priority the leadership and members of this Committee place on addressing the unmet housing needs of Native Americans.

S. 1352 seeks to further tribal self-governance, streamline and simplify the process of providing housing assistance to Native communities and strengthen the Department of Housing and Urban Development (HUD) housing assistance programs that have been so successful in helping Native Hawaiian families and so many American Indians and Alaska Native families gain access to much needed housing.

American Indians, Alaska Natives and Native Hawaiians face unique barriers to housing development and their communities face the highest rates of national poverty. The most recent data available from the Department of Housing and Urban Development, the Census Bureau, and the Government Accounting Office illustrates the widely disproportionate rates of unmet housing need faced by Native Americans.

- Approximately 28 percent of reservation housing units lack adequate plumbing and kitchen facilities, a rate more than five times greater than the national average;
- Nearly 46 percent of Native households are overcrowded, a rate almost three times greater than the rest of the country; and,
- While Native Americans make up less than 1 percent of the general population, they comprise 8 percent of the country's homeless.

These national statistics are a stark reminder of existing housing disparities between Native and Non-Native communities in the United States, and yet the data for the State of Hawaii is even worse. Unfortunately, HUD statistics have shown that Native Hawaiians face the highest rates of inadequate housing, overcrowding and homelessness in the nation.

There are other factors, but two facts contribute significantly to the challenges faced by many Native Hawaiian families in search of decent and affordable housing: Native Hawaiian families rank last in the nation in average annual pay, while the cost of living in Hawaii ranks the highest of all fifty states—116 percent of the national average.

NAHASDA housing assistance has played a critical role in helping to address the housing needs of Native Hawaiian families in my state. I have witnessed the success of these HUD programs—how they have benefitted Native Hawaiian communities, increased homeownership, improved living conditions, and changed lives. Native Hawaiian housing assistance programs remain an integral part of the NAHASDA success story and I look forward to working with my colleagues to advance this measure through the Congress.

Thank you to all of the witnesses who travelled here to participate in this hearing. Your contributions will be invaluable to the Committee as we move forward on this Native American housing assistance reauthorization legislation. We must all pledge our best efforts to support, S.1352, to sustain and improve housing opportunities, build stronger and more self-sufficient Native communities, and create a more vibrant national economy.

Thank you.

PREPARED STATEMENT OF HON. KAREN R. DIVER, CHAIRWOMAN, FOND DU LAC BAND  
OF LAKE SUPERIOR CHIPPEWA

I am Karen R. Diver, Chairwoman of the Fond du Lac Band of Lake Superior Chippewa. On behalf of the Fond du Lac Band, I would like to thank the Committee for scheduling this hearing to consider S. 920, and for inviting me to testify regarding this bill. I would also like to thank Senator Franken and Senator Klobuchar for their work in considering the Band's request for this measure and for introducing this bill.

The Fond du Lac Band and Carlton County, Minnesota have been working jointly on a number of matters. One of these, which brings us to Congress, is our effort to find ways in which the Band and the County can address problems arising from checkerboard land ownership within the Fond du Lac Reservation, and enhance the ability of both the Band and the County to make the best use of the lands that each of us holds.

S. 920 would enable us to do this. S. 920 would provide the Band with authority under federal law to convey title to land that the Band holds in fee simple. This would address the last remaining step that is needed in order for the Fond du Lac Band and Carlton County to implement an agreement that we have for a land exchange that will greatly benefit us both and which has been processed through and satisfied all other requirements of Minnesota law. Carlton County's support for this measure is set out in a letter dated July 3, 2013 from Robert Olean, Chair, Carlton County Board of Commissioners, to Maria Cantwell, Chairwoman of the Senate Committee on Indian Affairs. A copy of the County Commissioner's letter is attached to this testimony and we ask that it be included as part of the record.

We also note that a companion bill to S. 920, H.R. 2650, was introduced in the House on July 10, 2013 and referred to the House Natural Resources Committee, Subcommittee on Indian Alaska Native Affairs which held a hearing on that bill on July 23, 2013.

#### **Background**

The Fond du Lac Band occupies a Reservation in northeastern Minnesota that was carved out of our aboriginal territory pursuant to our 1854 Treaty with the United States. Treaty of September 30, 1854, 10 Stat. 1109. Our Reservation is but a fraction of the Band's aboriginal territory and is the home of more than 6,700 Tribal members and other Indians who live on and near the Reservation. The 1854 Treaty established a Reservation that encompassed more than 101,000 acres. While the Treaty provided that this was to be a permanent homeland for the exclusive use and benefit of the Fond du Lac Band, as a result of the federal allotment policies in the early Twentieth century, a considerable part of our Reservation lands were opened to private entry by homesteaders and others. Over the years, many of those lands were forfeited for nonpayment of taxes, and have since been administered by the County with title held by the State of Minnesota. Land-ownership within the Reservation is checkerboarded, with tax-forfeited lands held by the County intermixed with trust land held by the Fond du Lac Band and our Band members.

The checkerboard landownership significantly limits both the Band's and the County's ability to make effective use of our lands. Several years ago, the Band and the County began to look for ways in which to work together to improve this. We determined that we could do this through a land exchange, and the Band and the County subsequently entered into an agreement to implement a land exchange.

The Band and the County have worked jointly on this land exchange and it will greatly benefit both the Band and the County. The land exchange involves 1,451 acres of land located outside the Fond du Lac Reservation which are owned in fee simple by the Band. These lands would be exchanged for tax-forfeited lands of equivalent value (approximately 3,200 acres) that are administered by Carlton County which are located within the Fond du Lac Reservation.

By this land exchange, both the Band and the County can consolidate scattered tracts of land into areas that can be more effectively managed and productively used. The land that would be transferred by the County to the Band lies within the Fond du Lac Reservation. Because these lands are intermixed with Indian trust lands, and tend to be of poorer quality, there are limits to the County's ability to effectively use them. A transfer of this land to the Band, however, will greatly benefit the Band by providing land on which the Band can construct much-needed housing for Band members as well as areas that can be preserved in their natural state to enhance Band member hunting and gathering opportunities.

The land that would be transferred from the Band to the County is held by the Band in fee simple, lies outside the Reservation, and is very good timber land. The transfer of these lands to the County will greatly enhance the County's forestry re-

sources. Independent third party appraisals have been done and the property to be exchanged is of equivalent value.

#### **Why Legislation Is Needed**

The proposed land exchange has been processed through and met all of the requirements of Minnesota law for such an exchange. Minn. Stat. Ch. 94.344. This includes the appraisals, public hearings, environmental review, and title review. However, because the federal Non-Intercourse Act, 25 U.S.C. § 177, prohibits any “purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians” unless authorized by Congress, Minnesota advised the Band and the County that the State cannot give final approval to the land exchange without an Act of Congress authorizing the Band to convey its title to this land.

The Non-Intercourse Act has been in effect since the earliest days of the Republic. Under that statute, a sale or other conveyance of tribally-owned land is of no effect unless the sale or conveyance is made pursuant to either a treaty with the United States or federal statute. See *County of Oneida v. Oneida Indian Nation*, 470 U.S. 226, 234 (1985); *Oneida Indian Nation v. County of Oneida*, 414 U.S. 661, 677–678 (1974). See also *Cohen’s Handbook of Federal Indian Law*, § 15.06 at pp. 1027–1039 (2012 ed.) (*Cohen’s Handbook*). The statute is broadly written. In recent years, however, questions have been raised about whether the restrictions contained in 25 U.S.C. § 177 would apply to land purchased by a tribe without federal involvement and held by the tribe in fee simple. See *Cohen’s Handbook*, § 150.06[4] at pp. 1034–36. To date, the United States Supreme Court has not resolved that question. In its most recent decision where the issue was raised, the Court stated that “[t]his Court has never determined whether the Indian Non-Intercourse Act, which was enacted in 1834, applies to land that has been rendered alienable by Congress and later reacquired by an Indian tribe.” *Cass Cnty., Minn. v. Leech Lake Band of Chippewa Indians*, 524 U.S. 103, 115 n. 5 (1998). The Court there declined to decide that question because the issue had not been presented to or considered by the lower federal courts in that case. *Id.* The Supreme Court has not since resolved the issue left open by the *Cass County* case.

To address this Congress has, in other circumstances, provided the necessary federal authorization for Indian tribes to convey interests in tribally-owned fee lands. Two such examples involve other tribes in Minnesota. In particular, Act of June 20, 2000, Pub. L. 106–217, 114 Stat. 344, provides that the Lower Sioux Indian Community in Minnesota “may lease, sell, convey, warrant, or otherwise transfer all or any part of the Community’s interest in any real property that is not held in trust by the United States for the benefit of the Community” “without further approval, ratification, or authorization by the United States.” Similarly, in the Native American Technical Corrections Act of March 2, 2004, Public Law 108–204, section 126, 118 Stat. 542, Congress did the same for the Shakopee Mdewakanton Sioux Community in Minnesota, authorizing the Tribe to convey land it holds in fee simple to others without further federal approval.

S. 920 would do the same for the Fond du Lac Band. S. 920 is modeled on the 2000 and 2004 statutes that were enacted for the other Minnesota tribes. S. 920 would provide the necessary congressional authorization for the Fond du Lac Band to convey its title to the lands that the Band holds in fee simple, and thereby enable the Band and the County to complete their proposed land exchange.

While the immediate need for this legislation is the current proposed land exchange, the Band and the County have identified other lands which are appropriate candidates for similar exchanges in the future. Accordingly federal legislation that would generally permit the Band to convey land that the Band holds in fee simple—as done in S. 920—will facilitate similar transactions in the future.

#### **Conclusion**

The Fond du Lac Band and Carlton County have worked together to find ways to meet our shared interest in improving our ability to effectively use and manage our lands so that we can better meet the needs of the people we serve. S. 920 would provide the Band with the federal authorization needed to complete the land exchange that would serve those objectives.

I would be pleased to answer any questions that the Committee may have and to provide any additional information that the Committee may need to review this. We very much appreciate the Committee’s consideration of this important matter, and ask that the Committee favorably report on this bill.

Miigwech. Thank you.

**Attachment**

COMMISSIONERS OFFICE, COUNTY OF CARLTON, CARLTON COUNTY  
COURTHOUSE  
Carlton, MN, July 3, 2013

Hon. MARIA CANTWELL,  
Chairwoman,  
Senate Committee on Indian Affairs,  
Washington, DC.

RE: S.920—THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA NON-  
INTERCOURSE ACT BILL

Dear Chairwoman Cantwell:

The Carlton County Board of Commissioners supports the Fond du Lac Band of Lake Superior Chippewa in its quest to seek passage of S. 920, a bill introduced on May 9, 2013 by Senator Franken, cosponsored by Senator Klobuchar, which would allow the Fond du Lac Band to convey Band fee simple property without further federal approval. The bill has been referred to the Committee on Indian Affairs. As a representative for the Carlton County Board of Commissioners, I would be pleased to answer any questions and provide any additional information the Committee may need to review on this matter, and the Board asks that the Committee favorably report on S. 920.

The County Board and the Fond du Lac Band entered into a "Class B" land exchange under Minnesota Statutes Chapter 94.344, which governs the process by which Tax Forfeited Lands administered by County Government can exchange titles to land with other entities. The process requires independent third party appraisals of all subject properties, public hearings, environmental review of properties by the State of Minnesota Department of Natural Resources and title review by the State of Minnesota Attorney General's Office before titles to property can be exchanged. All conditions of the Statute have been met except for the Attorney General's Opinion that Fond du Lac Band does not have authority to exchange titles subject to federal law, 25 U.S.C. 177, the Indian Non-Intercourse Act which states that consent must be given by Congress before the Fond du Lac Band can alienate fee simple property.

The purpose of the land exchange is to consolidate County managed lands in the headwaters of the Nemadji River system and to return to Tribal management tax forfeited lands within the Reservation boundary. The tax forfeited lands within the Reservation boundary are scattered amongst Tribally managed lands and in exchanging with the Band, would consolidated Tribal lands. The lands Fond du Lac will be exchanging to Carlton County will consolidate and provide access into existing county Memorial forest land and also protect the headwaters of the Nemadji River, a State-listed impaired water.

The U.S. Congress has enacted bills authorizing other Minnesota tribes to convey tribally-owned interests in fee simple property. The Carlton County Board supports the Fond du Lac Band of Lake Superior Chippewa in their pursuit of seeking passage of S. 920 from Congress allowing the Band to convey interests in tribally owned property now and into the future.

The Carlton County Board of Commissioners looks forward to working with you and the Committee and with Fond du Lac Band. If you have further questions or need additional information, please feel free to contact us at any time. The Board appreciates your consideration of this matter and fully supports Fond du Lac Band of Lake Superior Chippewa in this endeavor.

Sincerely,

ROBERT OLEAN,  
*Chair, Carlton County Board of Commissioners.*

GREGORY J BERNU,  
*Carlton County Land Commissioner.*

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PREPARED STATEMENT OF CAROL GORE, PRESIDENT/CEO, COOK INLET HOUSING  
AUTHORITY

Thank you, Chairwoman Cantwell, Vice-Chairman Barrasso, and members of the Senate Committee on Indian Affairs for this opportunity to provide testimony regarding a bill that is of critical importance to American Indian and Alaska Native families across the nation—the NAHASDA Reauthorization Act of 2013, S. 1352.

Headquartered in Anchorage, Alaska, Cook Inlet Housing Authority (CIHA) has a service area that covers a vast portion of southcentral Alaska. These lands are home to tens of thousands of Alaska Native and American Indian people, all too

many of whom struggle to find safe, sanitary, affordable housing. Unfortunately, the severity of the need for housing among American Indian and Alaska Native families is ubiquitous not just in the communities we serve and the remainder of Alaska, but throughout Indian Country.

The passage of NAHASDA in 1996 represented a major advancement in the Indian Housing delivery system. Recipients have since built, acquired, and/or rehabilitated more than 110,000 homes. They have developed new housing; modernized, weatherized, and rehabilitated old homes; provided rental assistance; created home loan programs; delivered housing and financial literacy counseling; offered down payment assistance; prevented crime; and even revitalized deteriorated neighborhoods. Although NAHASDA has empowered tribal recipients to effectively address housing needs in their communities, the severity and pervasiveness of those needs makes continued federal investment in Indian housing a top priority for virtually all Indian tribes.

NAHASDA is presently authorized through September 30, 2013, making the timely passage of S. 1352 a time-sensitive endeavor. We thank members of the Committee and their dedicated staff for the work they have already done on the reauthorization bill, and we stand ready to provide whatever assistance may be needed to ensure that S. 1352 is enacted promptly.

#### **S. 1352 Contains Important Amendments**

S. 1352 contains amendments to NAHASDA that will streamline and otherwise improve the delivery of Indian housing. The following provisions stand out to CIHA as being particularly effective in addressing existing barriers and promoting innovation:

- Section 101 eliminates the need for tribes to painstakingly account for income that is generated off of income that is in turn generated off of grant amounts. If such a requirement sounds unduly cumbersome and bureaucratic, that is because it is.
- Sections 101 and 102 address tribally-determined wage rates and environmental review requirements in a manner that will eliminate administrative redundancies where multiple funding sources are being used in a single project.
- Section 204 allows for modest increases in Total Development Cost limits, which present a significant barrier to energy efficient construction and the integration of alternative energy technology into Indian housing projects.
- Section 404 enables tribes to be competitive when seeking Low Income Housing Tax Credits.

#### **Mark-Ups Needed to S. 1352**

Cook Inlet Housing urges the Committee to consider three important changes during the mark-up of S. 1352. These changes are necessary to implement provisions in the manner we believe the Committee intends.

##### *1. Demonstration Program for Homeless or At-Risk Indian Veterans*

Cook Inlet Housing applauds Committee members for taking bold steps to address the shameful prevalence of homelessness among American Indian and Alaska Native Veterans. We strongly support the concept of a rental assistance demonstration program for homeless and at-risk Native veterans, as outlined in section 401 of S. 1352. However, one minor but critical amendment is needed for the demonstration program to achieve its intended results.

Section 401 of S. 1352 presently provides that the program must benefit Indian veterans who “are residing on or near Indian lands,” making the definition of the term “Indian lands” critical. The definition used in S. 1352 comes from the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302). That definition, in turn, cross-references multiple other definitions in other pieces of legislation. This approach is confusing and cumbersome, and it does not reflect the manner in which Indian housing is actually delivered under NAHASDA.

The Indian housing delivery system is structured around the delivery of housing within “Indian Areas,” as that term is already defined in NAHASDA. Further, the meaning of the term “Indian Areas” has been carefully considered and clarified during Negotiated Rulemaking between the tribes and the Federal Government. The term has been thoughtfully defined to reflect the realities of the Indian Housing delivery system.

*Proposed Revision:* We urge the Committee to replace the term “Indian lands” in section 401 with the term “Indian areas” and to define the term “Indian areas” as having the meaning given the term in section 4(11) of the Native

American Housing Assistance and Self-Determination Act (25 U.S.C. 4103(11)) and its implementing regulations at 24 C.F.R. Part 1000.

## 2. Environmental Review

S. 1352 includes language proposed by Indian Country that will allow NAHASDA-based environmental reviews to cover other federal funding sources, so as to reduce potential redundancy (Section 102 of S. 1352). However, rather than include such language as a new section 105(e) as proposed, the Senate language would replace existing section 105(d). The existing 105(d) contains provisions that authorize HUD to waive environmental review requirements when a waiver will not frustrate NEPA or threaten the health or safety of the community, is the result of an inadvertent error, and may be corrected through the sole action of the recipient. This limited waiver authority is an important provision that tribes and TDHEs have relied upon, and which has not been controversial. The waiver authority should remain in NAHASDA.

*Proposed Revision:* CIHA believes that the removal of the limited waiver provision in current section 105(d) of NAHASDA may be unintentional. We suggest that the new environmental review language be inserted as a new 105(e) and not as a replacement for 105(d).

## 3. Conversion of Rental Unit to Homebuyer Unit

Multiple recipients have expressed concern about potential ambiguity in the changes to section 205, specifically the new 205(d) (section 201 of S.1352). CIHA supports this provision but wants to ensure that its effect is clear. We believe that any ambiguity can likely be resolved with the following minor revisions:

*Proposed Revision:* “(d) PURCHASE.—In the case of rental housing that is made available to a current rental tenant for conversion to a homebuyer or lease-purchase unit, the current rental tenant may purchase through a contract to purchase, lease-purchase agreement, or any other sales agreement *so long as the current rental tenant was if the unit is made available for occupancy by a family that is a low-income family at the time of initial occupancy.*”

## Additional Provisions Should Be Included in S. 1352

S. 1352 does not contain several provisions that were offered by the National American Indian Housing Council at the consensus of its membership, which includes 271 organizations representing 463 tribes. Notable among those provisions are:

- *Elimination or modification of the 30 percent maximum rental payment requirement.* S. 1352 does not contain any language eliminating or modifying the 30 percent rule, which imposes an unsustainable operating cost burden on projects developed under NAHASDA.
- *Reserve accounts.* S. 1352 does not include the language proposed by NAIHC to expand the purposes for which reserve accounts can be used beyond administration and planning.
- *Insurance requirements.* S. 1352 does not include language that would limit insurance requirements to those units actually owned or managed by the tribe/TDHE. Presently, tribes are required to maintain insurance on any units assisted under NAHASDA, even if those units are privately owned and the assistance provided is relatively minor.

Including the foregoing provisions in S. 1352 will address barriers to the delivery of Indian Housing and enable tribes to improve access to safe, affordable housing in the communities they serve.

Again, we extend our sincere appreciation to the Chairwoman, Vice-Chair, and Members of the Senate Committee on Indian Affairs. S. 1352 makes a number of critical improvements to the Indian housing delivery system, and we fully support the bill subject to the critical mark-ups identified above.

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PREPARED STATEMENT OF ANNETTE BRYAN, EXECUTIVE DIRECTOR, PUYALLUP NATION HOUSING AUTHORITY

Good afternoon, Chairwoman Cantwell, Vice-Chairman Barrasso, and distinguished members of the Senate Committee on Indian Affairs. My name is Annette Bryan, and I am the Executive Director of the Puyallup Nation Housing Authority (PNHA). I would like to thank the Chair, the Vice-Chair, and other Committee Members for introducing S. 1352, the bill to reauthorize the Native American Hous-

ing Assistance and Self-Determination Act (NAHASDA). The housing needs for the Puyallup Tribe, and across Indian country, are extreme. The NAHASDA has provided PNHA with tools to make notable progress in addressing the housing needs of our Tribe, but there is still a significant unmet need that is far too large. The NAHASDA has been and will continue to be a critically needed tool to enable tribes to meet the overwhelming need for safe, affordable, and sanitary housing for their members. Since the current version of the statute expires on September 30, 2013, timing is important. We appreciate the efforts of the Committee members and their staff to introduce the reauthorization bill and we look forward to working with you to ensure that it is enacted as soon as possible.

#### **S. 1352 Contains Much Needed Amendments**

S. 1352 contains a number of amendments to the NAHASDA and related legislation that will provide important benefits to Indian housing. PNHA supports the proposed amendments contained in S. 1352 (subject to the needed mark ups described below to fix what appear to be inadvertent ambiguities or confusion). In particular, PNHA appreciates and supports the following provisions:

- Section 101, dealing with program income, which will foster greater flexibility and creativity in use of program income and in the use of income generated by such funds.
- Sections 101 and 102, dealing with tribally-determined wage rates and environmental review respectively, which will reduce administrative redundancies where multiple funding sources are being used in a single project.
- Section 201, which authorizes a family who initially occupied a rental unit as a low-income family but later gains enough income to exceed the low-income threshold to convert to a homebuyer for that same unit without having to re-qualify as low-income.
- Section 204, allowing for increases in the Total Development Cost limits, which are one of the significant barriers to energy efficient design and construction.
- Section 404, which will foster greater competitiveness for tribes in seeking Low Income Housing Tax Credits.

#### **Mark-Ups Needed to S. 1352**

We urge the Committee to consider two changes during the mark-up of S. 1352. Both of these changes are needed to effectively implement two of the amendments in the bill.

##### *Environmental Review*

S. 1352 includes the language proposed by Indian Country to amend Section 105 (Environmental Review) to allow for NAHASDA-based environmental reviews to cover other funding sources, so as to reduce potential redundancy (Section 102 of S. 1352). However, rather than include such language as a new section 105(e) as proposed, the Senate language would replace the existing 105(d). That section (existing 105(d)) contains the provisions that authorize HUD under certain limited circumstances to waive the environmental review requirements. The waiver authority is an important provision that tribes and TDHEs have relied upon, and which has not been controversial. The proposed amendment in S. 1352, however, would eliminate that waiver authority. This change may be inadvertent. The waiver authority needs to remain in the NAHASDA. With this, PNHA proposes the following revision.

##### *Proposed Revision:*

PNHA urges that the new language be inserted as a new 105(e) and not as a replacement for 105(d).

##### *Conversion of Rental Unit to Homebuyer Unit*

We have heard some concern expressed about potential ambiguity in the changes to Section 205, specifically the new 205(d) (section 201 of S. 1352). PNHA supports this provision, but wants to ensure that its objective and effect are clear. We think that any ambiguity can be resolved with a couple of minor wording changes, as follows:

##### *Proposed revision:*

3 “(d) PURCHASE.—In the case of rental housing that is made available to a current rental tenant for conversion to a homebuyer or lease-purchase unit, the current rental tenant may purchase through a contract to purchase, lease-purchase agreement, or any other sales agreement *so long as the current rental ten-*

*ant was if the unit is made available for occupancy by a family that is a low-income family at the time of initial occupancy.”*

#### **Additional Items PNHA Would Like to See in S. 1352**

As necessary as its proposed amendments are, S. 1352 does not contain several items that are very important to Indian Country. Among them are the following:

- *30 percent maximum rental payment requirement.* S. 1352 does not contain any language eliminating or modifying the 30 percent rule, which imposes costly burdens on Indian Country housing development and maintenance.
- *Timelines for HUD to act and “deemed approved” provisions.* S. 1352 does not include timelines for HUD to act with regard to certain waiver or approval requests, and which would provide that such a request is “deemed approved” if HUD fails to act within timeline.
- *Reserve Accounts.* S. 1352 does not include the NAIHC-proposed language that would expand the purposes for which reserve accounts can be used beyond just administration and planning.
- *Insurance requirements.* S. 1352 does not include the NAIHC-proposed language that would limit the tribe/TDHE insurance requirements and maintenance policy requirements to those units owned or managed by the tribe/TDHE (excluding from this requirement homes that are only “assisted” with NAHASDA funds).
- *LOCCS edits.* The Senate Bill does not include the NAIHC-proposed language that would require that HUD give notice and opportunity for a hearing before imposing a “LOCCS edit” on a recipient’s funds.

All of these additional items would enable tribes and TDHEs to better address the housing needs in their communities. We ask the Committee as it moves forward on S. 1352 to include them in the final legislation.

In closing, we greatly appreciate the effort of the Chair, Vice-Chair, Committee Members, and their respective staff in developing and introducing a NAHASDA reauthorization bill in a timely fashion, and for addressing a number of critically important issues. While we think that some improvements could be made, we fully support the proposed amendments (subject to the requested mark ups).

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PREPARED STATEMENT OF HON. MICHAEL THOM, CHAIRMAN, KARUK TRIBE HOUSING AUTHORITY; VICE-CHAIRMAN, KARUK TRIBE

Greetings Chairwoman Cantwell, Vice-Chairman Barrasso and distinguished members of the Senate Committee on Indian Affairs. My name is Michael Thom, and I am the Chairman of the Karuk Tribe Housing Authority (KTHA), as well as the Vice Chair of the Karuk Tribe. I am honored to provide these comments as testimony for today’s hearing in support of the reauthorization of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and in support of S. 1352, which contains amendments to NAHASDA to make it even stronger.

On behalf of the Karuk Tribe and the KTHA, I would like to thank the Chairwoman and the members of the Committee for introducing S. 1352, and for establishing the reauthorization of the NAHASDA as a priority legislative item for the Committee. In particular, we would like to thank the Chairwoman for her efforts to provide resources to meet the severe needs for housing assistance in Indian country and other rural areas. The housing needs for the Karuk Tribe, and across Indian country, are extreme. The NAHASDA has provided KTHA with tools to make notable progress in meeting the housing needs of our Tribe, but there is still a significant unmet need that is far too large. Reauthorization of the NAHASDA provides a necessary opportunity to strengthen the Act by increasing its flexibility and efficiency, but reauthorization is not enough: NAHASDA must also be funded in accordance with the dire housing needs in Indian country.

The Karuk Tribe is made up of several communities, which are located along the Klamath River in two extremely rural portions of Siskiyou and Humboldt Counties located in northwestern California. The Tribe has approximately 3600 enrolled tribal members and the Tribe’s current reservation is approximately 600 acres, located on noncontiguous parcels within the three communities. The Karuk Tribe Housing Authority serves one of the most remote and poverty stricken areas of California. Many of our members live in remote, rural region where economic opportunity and jobs are very limited and unemployment is as extraordinarily high as the per capita income is low. This region was estimated to be 85 percent timber-dependent, and its economy has not recovered from the closures of local mills, a condition borne out

the fact that, in 2006, 90 percent of the students enrolled in the local elementary school qualified for free lunch program. The census data for the Tribe's Happy Camp community, which is where the Tribe's administrative offices and the KTHA office are located, indicate that the median income of \$23,095 is less than half the median income for the state and the per capita income only \$13,614. The census data indicate that the unemployment rate for the Tribe is 83 percent, and BIA labor force data indicate that unemployment is at 89 percent. Not surprisingly, the KTHA waiting list for homes has over 350 families and individuals, many of whom have no other viable housing options.

#### **The Karuk Tribe Housing Authority—Innovations and Unmet Needs**

Since the passage of NAHASDA, the KTHA has developed a broad range of housing services, using the flexibility in the Act to meet the needs of our service population in the most efficient manner possible. We have developed several programs to utilize the tools in NAHASDA intended to facilitate homeownership. For example, we have established a tribal direct loan program using our Indian Housing Block Grant (IHBG). With this program we are able to fund four to five low interest loans each year for eligible Indian participants seeking to purchase a home off reservation. We have also established a down payment assistance program to eligible Indian recipients with loans or mortgages to improve existing homes or purchase or construct their own new off reservation homes. Both of these programs are designed to assist low income members, but even with these benefits, only a small fraction of the families on our waiting list are financially capable of participating in these programs.

Additionally, the KTHA has implemented rental voucher programs to service the unique needs of college students and elders living off reservation. With these programs, we are able to provide rental assistance to between 28 and 36 students and 26 elders each year. While these programs help address real housing needs, they are also targeted and do not assist the majority of those families on the waiting list.

The vast majority of those on our waiting list (approximately 85 percent) do not have the means to participate in homeownership programs, and they are not students or elders. They are families and individuals seeking on-reservation low income rental units. However, we have only 187 low income housing units located on tribal land, of which 40 are set aside to serve the needs of low income elders and rents for elders are capped at \$125/month. Unfortunately, at the current level of NAHASDA funds available to the KTHA, we do not have the resources to build new low income rental units. The lack of resources is compounded by a lack of infrastructure, such as water, sewer, and, in some communities, electricity, and our remote location, which increases the cost for labor and materials. These environmental circumstances increase the cost of new construction significantly. Therefore, our new construction is limited to the replacement of one or two homes per year for families and individuals living in substandard housing, who are living in extreme poverty (i.e., an annual income below 30 percent of the poverty level).

#### **Unmet Housing Needs in Indian Country**

The circumstances facing the KTHA are not unusual in Indian Country. In 2003, the U.S. Commission on Civil Rights issues the report entitled "A Quiet Crisis in Indian Country, which includes a stark assessment of the unmet housing needs in Indian Country. The statistics cited in the report illustrate the dire needs of Native Americans nationwide. We cite the following of examples that reflect the issues we face at KTHA:

- Approximately 90,000 Indian families are homeless or under housed.
- 30 percent of reservation households are overcrowded, which is six times the national rate.
- 18 percent of reservation households are severely over crowded, which leads to a variety of other social ills such as domestic abuse, substance abuse, an increase in school dropout rates.
- Approximately 40 percent of on-reservation housing is considered inadequate as compared to six percent nationwide.
- A lack community infrastructure (water and sewer systems, electricity, and telephone service).

The Civil Rights Commission also noted that unmet housing needs in Indian Country are compounded by a number of factors such as depressed reservation economies, extreme poverty, lack of infrastructure to support housing communities, geographic isolation, environmental conditions on reservations, poor access to credit, and a lack of funding. Additionally, tribes and Indian housing authorities also face

a myriad of overlapping and often duplicative administrative requirements, which require that tribes coordinate federal, local, and sometimes state requirements with tribal requirements, which is both time and resource intensive.

In NAHASDA, Congress expressly recognized the acute housing needs in Indian Country and in Indian communities, and Congress recognized that the provision of affordable houses in safe and health environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socio-economic status. However, as the report of the Civil Rights Commission details, the purchasing power of the IHBG decreased during the years assessed (1998 to 2003). The report also contrasts the loss of IHBG purchasing power to the overall HUD budget, which increased during this period. The report notes that, when adjusted for inflation, the overall HUD discretionary budget increased by 39.6 percent, while the funding for HUD's Native American programs decreased by 1.3 percent. Since the report was issued the funding for IHBG has remained flat or *decreased* at the same time construction costs have spiked, further eroding the purchasing power of tribes and Indian housing authorities.

In 2000, HUD estimated that the NAHASDA funding at that time would only meet 5 percent of the need for Indian housing and that more than 230,000 housing units would still be needed. The Civil Rights Commission also cites an estimate by the Coalition for Indian Housing and Development that \$1.1 billion would be needed to adequately fund NAHASDA. In testimony provided this year to the Senate Committee on Indian Affairs, the Native American Indian Housing Council (NAIHC) stated that the funding request for 2013 was only \$650 million but that \$875 million would be needed just to keep up with inflation. At these funding levels, even with additional flexibility and efficiencies, tribes and Indian housing authorities will not be able to even maintain the status quo, never mind addressing the unmet need. The 350 families on the KTHA waiting list are a symptom of this systematic underfunding.

#### **S. 1352—NAHASDA Reauthorization Bill**

First, let me emphasize that reauthorization of NAHASDA is a priority. As Congress has recognized repeatedly, Indian programs work best when Indian tribes have the authority to plan, implement, and administer federal programs and are freed from federal micromanagement. NAHASDA was enacted in 1996 to begin to implement the longstanding federal policy of tribal self-determination in the housing arena, and it is critical to continue that process.

Despite the great progress that NAHASDA represents toward the goal of self-determination, amendments to NAHASDA are needed to increase flexibility and efficiencies in ways that will enable tribes and Indian housing authorities to stretch our underfunded block grants. We need the flexibility to identify and target our local needs, and we need to be free of micromanagement and overlapping and duplicative oversight requirements.

S. 1352 includes many amendments which we support as a means to provide greater flexibility and to promote tribal self-governance and self-sufficiency. We do not oppose any of the proposed amendments, and we highlight several of the amendments we believe will have the greatest positive effect. We also offer suggested amendments to a few of the current proposals, which we believe will increase their effectiveness. Finally, we note that the discussion draft does not address certain issues which are very important to tribes and Indian housing authorities. While the proposed amendments may appear, at first sight, to merely be a laundry list of particulars, when you step back and look at the big picture, these amendments are integrated pieces of the larger goal inherent in NAHASDA—furtherance of tribal self-determination in meeting the housing needs of its members. I will address several of the proposed amendments to illustrate this point.

#### **Important Concepts Included in S. 1352**

- *Program income:* Any income generated from program income (as opposed to being generated by IHBG funds) will be treated as nonprogram income and will have no restrictions. Currently, HUD treats income that is generated by program income as program income, with the attendant restrictions. Establishing greater flexibility in this area will spur innovation and development.
- *Tribally determined prevailing wage rates:* If a tribe has adopted prevailing wage rates applicable to a NAHASDA-funded project, those rates will apply to the entire project, including other federal funding sources. This amendment will greatly reduce redundancy in tracking and enforcing applicable wage rates, and allow for more funding to be used for constructing homes rather than administrative requirements.

- *Environmental review*: If a tribe has carried out an environmental review on a NAHASDA-funded project consistent with the applicable HUD requirements, that review will satisfy the environmental review requirements from other federal funding sources. This amendment will greatly reduce redundancy in environmental reviews, also allowing for more funding to be used for constructing homes rather than administrative requirements.
- *Binding commitments*: Binding commitments would no longer be required for funds utilized on privately owned homeownership units if aggregate cost is less than \$10,000 over a five year period. While KTHA supports a larger cut-off (of \$40,000), this amendment will also save time and resources.
- *Conversion of rental unit to homebuyer unit*: If a family initially occupied a rental unit as a low-income family, but later gains enough income to exceed the low-income threshold, that family can still convert to a homebuyer for that same unit without having to re-qualify as low-income. This amendment is necessary so that we don't punish those tribal members who succeed in bettering their financial circumstances.
- *Total Development Costs*: Authorizes recipients to exceed total development cost caps by 20 percent (under current HUD regulations, it is 10 percent). This language should allow some additional use of energy efficient building designs and materials that we were prevented from doing so by TDC caps.
- *Self-Monitoring*: The self-monitoring requirement would be changed from annually to every other year, except for subrecipients, who must be monitored by the recipient every year. This amendment will help reduce the administrative burden on our housing programs.
- *Indian Veterans' Housing Assistance Demonstration Project*: HUD would be authorized to take up to 5 percent of the rental assistance amounts appropriated under the 1937 Act to establish an Indian Veteran specific housing assistance voucher program for the benefit of Indian veterans who are homeless or at-risk of homelessness and who are residing on or near Indian lands. The program would be operated by IHBG recipients. This amendment is an important change, and provides much needed support to our vulnerable Indian veterans.
- *Low Income Housing Tax Credits Preference*. Section 42(m)(1) of the Internal Revenue Code would be amended to require states to provide preference to applicants for Low Income Housing Tax Credits who are tribes, TDHEs, or entities whollyowned by tribes/TDHEs, or subrecipients of tribes/TDHEs. There would also be a preference for projects being developed in Indian areas as defined by NAHASDA. This amendment should assist in moving tribal applications forward in states, like California, that do not have a good track record of awarding LITHC to Indian tribes.
- *Indian Community Development Block Grant Eligibility for TDHEs*: TDHEs would be defined as Community-Based Development Organizations eligible to apply directly for ICDBG funding. KTHA supports this attempt to facilitate ICDBG funding to TDHEs.
- *Cherokee Nation funding*: The restriction on the Cherokee Nation receiving IHBG funds, which was tied to resolution of the "Cherokee Freedmen" issue, would be removed.
- *Native Hawaiian NAHASDA*: The title providing for a Native Hawaiian housing program would be restored.
- *Matching or Cost Participation*: IHBG funds would qualify to be used as matching or cost participation funds for projects where other federal or non-federal funding is conditioned on having matching or cost participation funds included.

#### **Important Self-Determination Proposals Not Included in S. 1352**

There are a number of important self-determination proposals that have been proposed by Indian country, by which are not included in S. 1352. We hope that you will consider these as you markup S. 1352. These proposals include:

- *30 percent maximum rental payment requirement*. The Senate Bill does not contain any language eliminating or modifying the 30 percent rule.
- *Exclusions from adjusted income*. S. 1352 does not contain authorization for tribes/TDHEs to adopt exclusions from adjusted income (which is the basis for determining income eligibility) through policy rather than through Indian Housing Plans, which require HUD approval.
- *Timelines for HUD to act and "deemed approved" provisions*. The NAIHC bill included timelines for HUD to act with regard to certain waiver or approval re-

quests, and provided that request is “deemed approved” if HUD fails to act within timeline. None of those provisions were included in S. 1352.

- *HUD Section 3 requirements.* The NAIHC bill proposed excluding applicability of HUD Section 3 requirements (to hire low-income persons in the community for construction and development of projects) where tribe has adopted tribal preference in employment and contracting standards of its own. This provision was not included in S. 1352.
- *Reserve Accounts.* S. 1352 does not include the NAIHC-proposed language that would expand the purposes for which reserve accounts can be used beyond just administration and planning.
- *Adding “maintaining units” to definition of affordable housing activities.* S. 1352 does not include the NAIHC-proposed language that would add “maintaining” dwelling units to the list of affordable housing activities authorized under NAHASDA.
- *Insurance requirements.* S. 1352 does not include the NAIHC-proposed language that would limit the tribe/TDHE insurance requirements and maintenance policy requirements to those units owned or managed by the tribe/TDHE (excluding from this requirement homes that are only “assisted” with NAHASDA funds).
- *Binding commitments.* S. 1352 does not include the NAIHC-proposed language that would require the form of “binding commitment” necessary for useful life to be developed by negotiated rulemaking rather than—as in current language—complete discretion of HUD.
- *LOCCS edits.* S. 1352 does not include the NAIHC-proposed language that would require that HUD give notice and opportunity for a hearing before imposing a “LOCCS edit” on a recipient’s funds.
- *Statute of Limitations on enforcement actions:* S. 1352 does not include the NAIHC-proposed language that would impose a three year statute of limitations on HUD enforcement actions.
- *Recaptured funds.* S. 1352 does not include the NAIHC-proposed language that would require that any IHBG funds recaptured by HUD in an enforcement action be redistributed to the other tribes/TDHEs, rather than simply going back to the Treasury general fund, or that would prohibit HUD from recapturing funds for any reason if the funds have already been expended on affordable housing activities.
- *Training and Technical Assistance funding.* S. 1352 does not include the NAIHC-proposed language that would require that any training or technical assistance funds that are not distributed to a regional entity go to NAIHC.

### Conclusion

NAHASDA represents great progress toward the goal of self-determination and has provided tribes and TDHEs with important tools for meeting the vast housing needs in Indian Country. However, the S. 1352 amendments to NAHASDA are needed to increase flexibility and efficiencies in ways that will enable tribes and TDHEs to do even more in this arena. The need is there in Indian Country and we look forward to working with the Committee on the best ways to address it.

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PREPARED STATEMENT OF TONI ANN BREND, CHAIRPERSON, COQUILLE INDIAN HOUSING AUTHORITY; VICE CHAIRPERSON, COQUILLE TRIBAL COUNCIL

Greetings Chairwoman Cantwell, Vice-Chairman Barrasso and distinguished members of the Senate Committee on Indian Affairs. My name is Toni Ann Brend, and I am the Chairperson of the Coquille Indian Housing Authority (CIHA) and the Vice Chairperson of the Coquille Tribal Council, the governing body of the Coquille Indian Tribe. I am honored to provide these comments as testimony for the Legislative Hearing in support of the reauthorization of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and in support of S. 1352, which contains amendments to NAHASDA to make it even stronger.

On behalf of the Coquille Indian Tribe and the Coquille Indian Housing Authority, I would like to thank the Chairwoman and the members of the Committee for introducing S. 1352, and for establishing the reauthorization of NAHASDA as a priority legislative item for the Committee. In particular, we would like to thank the Chairwoman for her efforts to provide resources to meet the severe needs for housing assistance in Indian Country. The housing needs for the Coquille Indian Tribe, and across Indian Country, are extreme. NAHASDA has provided CIHA with tools to

make notable progress in meeting the housing needs of our Tribe, but there is still a significant unmet need that is far too large. Reauthorization of NAHASDA provides a necessary opportunity to strengthen the Act by increasing its flexibility and efficiency, but reauthorization is not enough. NAHASDA must also be funded in accordance with the dire housing needs in Indian Country.

The Coquille Indian Tribe is located along the southern coast of Oregon, along the Coquille River watershed and lower Coos Bay, the lands inhabited by our elders and ancestors since time immemorial. In the 19th Century, members of our tribe were forcibly relocated to the Siletz Reservation, but a number of them escaped and made their way back to our homelands. Our Tribe was one of the many in Western Oregon subjected to the misguided policy of “termination” in the 1950s. But we never lost our identity as a tribe and as a people, and in 1989 were finally successful in obtaining restoration of our federal recognition from Congress.

One of the first steps our Tribe took, when it reorganized as a federally recognized tribe, was to establish the Coquille Indian Housing Authority, so that we could begin providing housing for our people. In the mid-1990s, when we obtained lands for our reservation, the Coquille Indian Housing Authority immediately embarked on an ambitious course of construction and development, turning 62 acres of former forest lands into a new homeland for our people through a mixed income residential development.

#### **The Coquille Indian Housing Authority—Programs and Unmet Needs**

Since the passage of NAHASDA, CIHA has developed a broad range of housing services, using the flexibility in the Act to meet the needs of our service population in the most efficient manner possible. We have constructed and operate a low-income housing development on our Tribal lands. We provide rental vouchers to low-income Tribal members and other American Indians and Alaska Natives to find rental housing on the private market. We operate a lease-to-own homebuyer program that enables Tribal members to become homeowners. We provide homebuyer assistance and counseling.

Despite these programs and the efforts of our staff, we still are unable to meet the need for housing for our people. We have long waiting lists for each of our programs. We simply do not have enough funding to build enough homes to meet the critical need out there.

In NAHASDA, Congress expressly recognized the acute housing needs in Indian Country and in Indian communities, and Congress recognized that the provision of affordable housing in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socio-economic status.

#### **S. 1352—NAHASDA Reauthorization Bill**

First, let me emphasize that reauthorization of NAHASDA is a priority. As Congress has recognized repeatedly, Indian programs work best when Indian tribes have the authority to plan, implement, and administer federal programs and are freed from federal micromanagement. NAHASDA was enacted in 1996 to begin to implement the longstanding federal policy of tribal self-determination in the housing arena, and it is critical to continue that process.

Despite the great progress that NAHASDA represents toward the goal of selfdetermination, amendments to NAHASDA are needed to increase flexibility and efficiencies in ways that will enable tribes and Indian housing authorities to stretch our underfunded block grants. We need the flexibility to identify and target our local needs, and we need to be free of micromanagement and overlapping and duplicative oversight requirements.

S. 1352 includes many amendments which we support as a means to provide greater flexibility and to promote tribal self-governance and self-sufficiency. We do not oppose any of the proposed amendments, and we highlight several of the amendments we believe will have the greatest positive effect. We also offer suggested amendments to a few of the current proposals, which we believe will increase their effectiveness. Finally, we note that the discussion draft does not address certain issues which are very important to tribes and Indian housing authorities. While the proposed amendments may appear, at first sight, to merely be a laundry list of particulars, when you step back and look at the big picture, these amendments are integrated pieces of the larger goal inherent in NAHASDA—furtherance of tribal self-determination in meeting the housing needs of its members. I will address several of the proposed amendments to illustrate this point.

#### **Important Concepts Included in S. 1352**

- *Program income*: Any income generated from program income (as opposed to being generated by IHBG funds) will be treated as nonprogram income and will

have no restrictions. Currently, HUD treats income that is generated by program income as program income, with the attendant restrictions. Establishing greater flexibility in this area will spur innovation and development.

- *Tribally determined prevailing wage rates:* If a tribe has adopted prevailing wage rates applicable to a NAHASDA-funded project, those rates will apply to the entire project, including other federal funding sources. This amendment will greatly reduce redundancy in tracking and enforcing applicable wage rates, and allow for more funding to be used for constructing homes rather than administrative requirements.
- *Environmental review:* If a tribe has carried out an environmental review on a NAHASDA-funded project consistent with the applicable HUD requirements, that review will satisfy the environmental review requirements from other federal funding sources. This amendment will greatly reduce redundancy in environmental reviews, also allowing for more funding to be used for constructing homes rather than administrative requirements.
- *Binding commitments:* Binding commitments would no longer be required for funds utilized on privately owned homeownership units if aggregate cost is less than \$10,000 over a five year period. While KTHA supports a larger cut-off (of \$40,000), this amendment will also save time and resources.
- *Conversion of rental unit to homebuyer unit:* If a family initially occupied a rental unit as a low-income family, but later gains enough income to exceed the low-income threshold, that family can still convert to a homebuyer for that same unit without having to re-qualify as low-income. This amendment is necessary so that we don't punish those tribal members who succeed in bettering their financial circumstances.
- *Total Development Costs:* Authorizes recipients to exceed total development cost caps by 20 percent (under current HUD regulations, it is 10 percent). This language should allow some additional use of energy efficient building designs and materials that we were prevented from doing so by TDC caps.
- *Self-Monitoring:* The self-monitoring requirement would be changed from annually to every other year, except for subrecipients, who must be monitored by the recipient every year. This amendment will help reduce the administrative burden on our housing programs.
- *Indian Veterans' Housing Assistance Demonstration Project:* HUD would be authorized to take up to 5 percent of the rental assistance amounts appropriated under the 1937 Act to establish an Indian Veteran specific housing assistance voucher program for the benefit of Indian veterans who are homeless or at-risk of homelessness and who are residing on or near Indian lands. The program would be operated by IHBG recipients. This amendment is an important change, and provides much needed support to our vulnerable Indian veterans.
- *Low Income Housing Tax Credits Preference.* Section 42(m)(1) of the Internal Revenue Code would be amended to require states to provide preference to applicants for Low Income Housing Tax Credits who are tribes, TDHEs, or entities whollyowned by tribes/TDHEs, or subrecipients of tribes/TDHEs. There would also be a preference for projects being developed in Indian areas as defined by NAHASDA. This amendment should assist in moving tribal applications forward in states, like California, that do not have a good track record of awarding LITHC to Indian tribes.
- *Indian Community Development Block Grant Eligibility for TDHEs:* TDHEs would be defined as Community-Based Development Organizations eligible to apply directly for ICDBG funding. KTHA supports this attempt to facilitate ICDBG funding to TDHEs.

### Markup Needed

There are two changes that we would urge the Committee to consider during markup of this legislation, both of which are needed to effectively implement two of the amendments addressed above.

First, the bill includes the language that Indian Country proposed to amend Section 105 (Environmental Review) to allow for NAHASDA-based environmental reviews to cover other funding sources, so as to reduce potential redundancy (Section 102 of the bill). However, rather than include such language as a new section 105(e) as proposed, the Senate language would replace the existing 105(d). That section (existing 105(d)) contains the environmental review waiver provisions, which authorizes HUD under certain circumstances to waive the environmental review requirements. The waiver authority is an important provision that tribes and TDHEs

have relied upon, and which has not been controversial—and the proposed amendment would eliminate that waiver authority.

*Proposed Revision:* CIHA urges that the new language be inserted as a new 105(e) and not as a replacement for 105(d).

Second, we have heard some concern expressed about potential ambiguity in the changes to Section 205, specifically the new 205(d) (Section 201 of the bill). We think that the ambiguity can be resolved with a couple of minor wording changes, as follows:

*Proposed Revision:* “(d) PURCHASE.—In the case of rental housing that is made available to a current rental tenant for conversion to a homebuyer or lease-purchase unit, the current rental tenant may purchase through a contract to purchase, lease-purchase agreement, or any other sales agreement *so long as the current rental tenant was if the unit is made available for occupancy by a family that is a low-income family at the time of initial occupancy.*”

#### **Important Self-Determination Proposals Not Included in S. 1352**

There are a number of important self-determination proposals that have been proposed by Indian Country that are not included in S. 1352. We hope that you will consider these as you markup S. 1352. These proposals include:

- *30 percent maximum rental payment requirement:* S. 1352 does not contain any language eliminating or modifying the 30 percent rule. When an Indian-specific housing program was created through NAHASDA, certain aspects of the prior 1937 Housing Act were retained. One of these was the requirement that tribes may charge no more for rents than 30 percent of the adjusted annual income of households, NAHASDA Section 203(a), 25 U.S.C. § 4133(a). While this appears to be a common sense measure to ensure that affordable housing remains affordable, it is a concept that has not transferred over well to the NAHASDA framework. First and foremost, under the 1937 Housing Act Public Housing program, there is a specific line item for maintenance and operation of managed premises. There is no such appropriation under NAHASDA. Oftentimes the only funds that are available for maintenance and operations come from the rents that tribes and TDHEs are able to charge. But there are many low-income clients whose annual adjusted income (a term defined by the statute) is at or near zero, and therefore the rents that the tribe or TDHE can charge is zero or de minimis. Under the 30 percent rule, tribes and TDHEs are prohibited from charging a base administrative fee if that fee is in excess of 30 percent of income. Further, the work required to certify and recertify the annual adjusted income of each household in order to make appropriate adjustments to rent is substantial and burdensome. Moreover, the 30 percent rule applies where the tribe or TDHE is providing a rental or homebuyer subsidy to a tribal member in a unit owned or managed by another landlord. Thus, where a tribe or TDHE decides to undertake a rental assistance voucher program—like CIHA—we are required to provide a subsidy in a sufficient amount to ensure that the tenant or homebuyer is paying no more than 30 percent of their income. We are prohibited from providing a flat voucher amount (such as a payment of \$200 per month per household in the program), which would enable us to spread our resources among more households. CIHA supports an amendment to NAHASDA that would eliminate or modify the application of the 30 percent maximum rent rule to Indian housing programs.
- *Timelines for HUD to act and “deemed approved” provisions:* The NAIHC bill included timelines for HUD to act with regard to certain waiver or approval requests, and provided that a request is “deemed approved” if HUD fails to act within timeline. None of those provisions were included in S. 1352.
- *Reserve Accounts:* S. 1352 does not include the NAIHC-proposed language that would expand the purposes for which reserve accounts can be used beyond just administration and planning.
- *Adding “maintaining units” to definition of affordable housing activities:* S. 1352 does not include the NAIHC-proposed language that would add “maintaining” dwelling units to the list of affordable housing activities authorized under NAHASDA.
- *Insurance requirements:* S. 1352 does not include the NAIHC-proposed language that would limit the tribe’s/TDHE’s insurance requirements and maintenance policy requirements to those units owned or managed by the tribe/TDHE (excluding from this requirement homes that are only “assisted” with NAHASDA funds).

- *LOCCS edits*: S. 1352 does not include the NAIHC-proposed language that would require that HUD give notice and opportunity for a hearing before imposing a “LOCCS edit” on a recipient’s funds.
- *Statute of Limitations on enforcement actions*: S. 1352 does not include the NAIHC-proposed language that would impose a three-year statute of limitations on HUD enforcement actions.

### Conclusion

NAHASDA represents great progress toward the goal of self-determination and has provided tribes and TDHEs with important tools for meeting the vast housing needs in Indian Country. However, the proposed S. 1352 amendments to NAHASDA are needed to increase flexibility and efficiencies in ways that will enable tribes and TDHEs to do even more in this arena. The need is there in Indian Country and we look forward to working with the Committee on the best ways to address it.

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PREPARED STATEMENT OF HON. JOE DURGLO, CHAIRMAN, CONFEDERATED SALISH  
AND KOOTENAI TRIBES OF THE FLATHEAD INDIAN NATION

My name is Joe Durglo and I am the Chairman of the Confederated Salish and Kootenai Tribes of the Flathead Indian Nation in present day western Montana. I appreciate the opportunity to comment on the Reauthorization of the NAHASDA. The Confederated Salish and Kootenai Tribes is one of the original ten Self-Governance Tribes in the U.S. and we are one of only a few Tribes who operate both our IIM program and our title plant. Another interesting historical fact is that we were the first in the country to organize under The Indian Reorganization Act. The Confederated Salish and Kootenai Tribes passed a resolution in 1998 designating the Salish and Kootenai Housing Authority (SKHA) as our Tribally Designated Housing Entity (TDHE). We appoint the Board of Commissioners to the SKHA and the Board of Commissioners oversee the operation of the SKHA pursuant to The Confederated Salish and Kootenai Tribal Ordinance 38C. The SKHA has developed many units over the years and currently has over 500 units of low

income affordable housing under management to assist in meeting the affordable housing needs of the members of the Confederated Salish and Kootenai Tribes. The SKHA has several different programs and services that are all under the umbrella of the SKHA such as the Bureau of Indian Affairs (BIA) Home Improvement Program (HIP) and the Indian Health Service (IHS) water and waste water services. With the SKHA being our TDHE they oversee all of our programs and services that are funded through NAHASDA.

In regards to the Reauthorization of NAHASDA I have some concerns to express in regards to the current Senate bill known as S. 1352. The National American Indian Housing Council (NAIHC) undertook a lengthy process beginning about two years ago to go to each of the nine regions of the U.S. and meet with Tribes and TDHE's to conduct an in-depth review of the NAHASDA statute. The goal of this review was to see what NAHASDA statute language needed to be revised or removed to make the program more responsive to the needs of Tribes. I think it is important to mention that there were several items that the Tribes and TDHE's worked hard on proposed language that was removed from S. 1352.

There are a couple of major issues that I would like to discuss that were not included in S. 1352 but were drafted by the NAIHC and presented to Congress. Since the enactment of NAHASDA our Tribe has opposed the implementation of Section 203 of NAHASDA that requires maximum rents to not exceed 30 percent of the monthly adjusted income of a family participating in any rental program using NAHASDA funds. In the draft language from NAIHC we had proposed two alternatives; either strike the maximum rent requirement or alternative language was proposed that would allow a NAHASDA recipient to establish a reasonable minimum rental amount or administrative fee to cover the recipient's basic administrative costs for managing the rental

unit even if the amount to be paid exceeded 30%. With the removal of this requirement we feel that our tribal membership who relies on our low income rental housing would have to pay some minimum fee and would share in the responsibility towards the ownership and maintenance of the tribal asset. With this requirement in the law there exists an excessive amount of administrative duties to assure that the families that we serve do not exceed the 30% rule requirement. If we were to eliminate this requirement we would only have to make sure that the families that we serve, when they enter the program, are low income families. In a day and age where every family has at least one cell phone with a monthly bill, if they claim zero income they live in a home and pay zero rent. It would only seem prudent for the family to share in the cost to maintain the rental unit by paying a minimum fee to live in the home. I believe that the 30% rule is well intentioned but Tribes should have the authority to set a rental amount that they feel is appropriate as we have the welfare of our tribal membership at heart in every decision we make.

Another issue of concern is the removal of the language that requires Tribes to comply with Section 3 of the Housing and Urban Development Act of 1968. What we had proposed was an exemption in Section 201 of NAHASDA that would have simply included Section 3 of the Housing and Urban Development Act of 1968 in the list of other Acts that are exempt for Tribes and TDHE's under NAHASDA. Without this exemption HUD has determined that Tribes and TDHE's are required to comply with Section 3 of the Housing and Urban Development Act of 1968. Section 3 of the Housing and Urban Development Act of 1968 requires that when HUD loans and grants are made and they require contracting opportunities that those projects or activities give preference to low and very low income persons or businesses residing in the

community where the project is located. I am sure that the intent of this Act is well meaning but the HUD compliance process is very cumbersome. Tribes and TDHE's are very cognizant of the need to provide employment opportunities for the low and very low income folks in our communities. Our tribe has enacted a tribal ordinance that requires all contracting activities on the Flathead Indian Nation must comply with the ordinance and provide employment opportunities to our tribal members. We should not be required to comply with this Act when the very nature of our tribal sovereignty is to provide employment to our tribal members. The unemployment and poverty rates on our reservation are much higher than the state of Montana so our tribal government works hard to provide employment when possible.

The last issue that I would like to address in S.1352 is a proposed new section in NAHASDA from the NAIHC draft bill that was not included in S.1352. The NAIHC draft bill language had proposed a new section that would have addressed the use of Indian Health Service (IHS) funds for sanitation facilities construction with NAHASDA funded projects. There currently exists an old regulation that does not allow the use of IHS funding for the construction of sanitation facilities in conjunction with NAHASDA funded projects. The proposed language would have simply stated that an Indian Tribe may, in its discretion, use IHS funds for the construction of sanitation facilities with a NAHASDA funded project. Our tribe has experienced this issue in the past when we are trying to construct housing developments with NAHASDA funds. It just seems like a simple fix to an issue that only causes problems for Tribes when there are limited resources to build much needed housing and IHS has funds to construct sanitation facilities for those housing developments. Please reconsider the inclusion of a new section in NAHASDA

that would allow the use of IHS funds for the construction of sanitation facilities with NAHASDA funded projects. The NAIHC draft has the language that would accomplish this.

I wanted to mention that I am pleased to see the inclusion of a new opportunity in S.1352 in regards to the Indian Veterans Housing Rental Assistance Demonstration Program. There is a great need here on our reservation to make sure that our tribal member veterans are properly housed. The SKHA Board of Commissioners enacted a policy that our tribal member veterans get a preference for our low income rental housing. This demonstration program will provide an additional option for those Tribes that are chosen to participate in the demonstration program and it is my hope that this program will prove to be valuable and will receive permanent authorization. I am glad to see this opportunity being pursued by both HUD and the Secretary of Veteran's Affairs to give Tribes access to the HUD Veterans Affairs Supportive Housing (VASH) Voucher program.

I would like to mention an issue that is not necessarily related to the reauthorization of NAHASDA but is important to the Confederated Salish and Kootenai Tribes. Attached to this testimony is a copy of Resolution No. 13-029 that was passed by our tribal council back in October of last year. The issue is in regards to the change in the process that HUD provides training and technical assistance to Tribes and TDHE's. As you can see in the resolution our Tribal Council is concerned by HUD changing the manner in which training and technical assistance is provided. Tribes and TDHE's worked with HUD to include in NAHASDA Section 703 which states that funds will be appropriated for assistance for a national organization representing Native American housing interests for providing training and technical assistance. The idea behind section 703 goes along with the whole idea behind NAHASDA which is to give

Tribes the ability and responsibility to plan for and create their housing programs to solve their housing need. NAHASDA has Self-Determination in the title and it is imperative that Tribes control all aspects of their housing program and that must include the training and technical assistance needs of all Tribes and TDHE's. Section 703 was included in the initial enactment of NAHASDA and training and technical assistance funds have been going to a national organization representing Native American housing interests, this organization is the National American Indian Housing Council. I would ask that the Senate Indian Affairs Committee please review this issue and remedy this situation. The easiest way to remedy this situation is to include language in the FY 2014 and future Appropriation Acts that section 703 is funded and that no funds from NAHASDA will be used to fund HUD's Transformation Initiative fund. Please review the language included in our resolution that discusses the Executive Order 13175 that Tribes should be consulted when federal policies impact Tribes. I believe that training and technical assistance is at the heart of capacity building and Tribes need to be consulted when changes are made that limit or change the manner in which they control how they build their capacity to operate and maintain their housing program.

I would like to conclude by thanking Senator Cantwell and the members of the committee for holding this hearing and for providing an opportunity for Tribes to comment.

ATTACHMENT

Resolution No. 13-029

**RESOLUTION  
OF THE GOVERNING BODY OF  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION**

**RESOLUTION TO SUPPORT FUNDING OF SECTION 703 OF NAHASDA FOR THE TRAINING AND  
TECHNICAL ASSISTANCE PROGRAM**

**BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI  
TRIBES THAT:**

**WHEREAS**, the Tribal Council of the Confederated Salish and Kootenai Tribes is the duly  
recognized governing body of the Flathead Nation with the responsibility to insure safe, decent  
and affordable housing for the tribal members within the exterior boundaries of the Flathead  
Nation; and

**WHEREAS**, the United States Congress recognized the need for housing assistance and  
economic development in Indian Country when it passed the Native American Housing  
Assistance and Self-Determination Act of 1996 (NAHASDA) as amended; and

**WHEREAS**, NAHASDA clearly states in Section 703 that funding be provided to a national  
organization representing Native American housing interests to provide training and  
technical assistance; and

**WHEREAS**, tribes and tribal housing programs fully supported and felt it was essential  
to include language in Section 703 of NAHASDA that created a responsive and  
effective training and technical assistance program that met their specific and unique  
needs; and

**WHEREAS**, this training and technical assistance is essential to tribes who provide low-  
income housing for its members through the Indian Housing Block Grant (IHBG); and

**WHEREAS**, this training and technical assistance is essential for all of Indian Country to  
allow tribes to stay in compliance with regulations of NAHASDA and to train their staff  
regarding housing regulations, policies, and procedures; and

**WHEREAS**, this training and technical assistance has historically been provided by the  
National American Indian Housing council through Section 703 of NAHASDA; and

**WHEREAS**, during Fiscal Year 2012 budget and appropriations process, the Congress at the request of the Administration included language that altered and changed the manner in which the training and technical assistance funding was to be appropriated – a change that does not support Section 703 of NAHASDA; and

**WHEREAS**, the Department of Housing and Urban Development (HUD) Office of Native American Programs (ONAP) published a Notice of Funds Availability (NOFA) on August 28, 2012 that ushers in major changes on the delivery of training and technical assistance; and

**WHEREAS**, the NOFA completely alters that manner in which all training and technical assistance will be provided to tribes and tribal housing programs and this new program does not meet the standards of Section 703 of NAHASDA; and

**WHEREAS**, Executive Order 13175 of Sept 23, 2004, requires consultation with Indian Tribal Governments and establishes policy in consulting and collaborating with Indian tribes through government-to-government relationships in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes; and

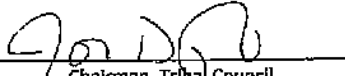
**WHEREAS**, this change to NAHASDA necessitates a government-to-government consultation that will allow tribes the opportunity to provide input before changes to federal policies are implemented for an essential program designed to provide training and technical assistance in accordance with Section 703 of NAHASDA; and

**NOW THEREFORE BE IT RESOLVED**, that the Tribal Council of the Confederated Salish and Kootenai Tribes strongly urges HUD-ONAP to halt the NOFA process until tribal leaders have an opportunity to pursue a protest that challenges HUD-ONAP's NOFA to administer Fiscal Year 2012 NAHASDA's training and technical assistance program funds; and

**BE IT FURTHER RESOLVED**, that the Tribal Council of the Confederated Salish and Kootenai Tribes urges HUD to begin an official tribal consultation before the end of calendar year 2012 in order to formulate a policy that meets the unique needs of tribal peoples and honors its responsibility to respect the tenets of tribal sovereignty and the rights of self-determination as laid out by law and treaty obligation.

# CERTIFICATION

The foregoing resolution was adopted by the Tribal Council on October 16, 2012, with a vote of 7 for, 0 opposed, and 0 not voting, pursuant to authority vested in it by Article VI, Section 1 (a), (h) and (u) of the Tribe's Constitution and Bylaws; said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

  
Chairman, Tribal Council

ATTEST:

  
Tribal Secretary

PREPARED STATEMENT OF CHERYL A. CAUSLEY, EXECUTIVE DIRECTOR, BAY MILLS INDIAN HOUSING AUTHORITY; CHAIRWOMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL (NAIHC)

Good afternoon Chairwoman Cantwell, Vice Chairman Barrasso, and distinguished members of the Committee on Indian Affairs. Thank you for the opportunity to provide a written statement on S. 1352, a bill to reauthorize the Native American Housing Assistance and Self-Determination Act (NAHASDA) and for other purposes.

My name is Cheryl Causley and I am the Executive Director of the Bay Mills Indian Housing Authority. I am an enrolled member of the Bay Mills Indian Community located in Brimley, Michigan, and am providing this statement as Chairwoman of the National American Indian Housing Council (NAIHC).

## **Background on the National American Indian Housing Council**

The NAIHC was founded in 1974 and for four decades has provided invaluable training and technical assistance to all tribes and tribal housing entities; provided information to Congress regarding the issues and challenges that tribes face in the many issues of housing, infrastructure, and community and economic development arenas; and worked with key federal agencies to address these important issues.

The membership of NAIHC is expansive, comprised of 274 members representing 473<sup>1</sup> tribes and tribal housing organizations. NAIHC's member tribes span the entire country from Florida to Alaska, from New Mexico to Maine and reside in each state represented by the Members of this Committee. Our members are deeply appreciative of the consistent leadership this Committee provides in Congress related to issues important to tribal communities.

NAIHC's primary mission is to support tribal housing entities in their efforts to provide safe, decent, affordable, and culturally appropriate housing for Native people.

## **Native American Housing Assistance and Self-Determination Act**

Passage of NAHASDA in 1996 signaled a shift in the relationship between federal and tribal governments with respect to housing programs. NAHASDA is based on

<sup>1</sup>There are 566 federally recognized Indian tribes and Alaska Native villages in the United States, all of which are eligible for membership in NAIHC. Other NAIHC members include state-recognized tribes eligible for housing assistance under the 1937 Housing Act and that were subsequently grandfathered in the Native American Housing Assistance and Self-Determination Act of 1996, and the Department of Hawaiian Home Lands, the state agency that administers the Native Hawaiian Housing Block Grant program.

tribal decisionmaking at the local level and has resulted in improved housing conditions throughout Indian Country.

In enacting NAHASDA, Congress moved to address the housing crisis in Indian Country by consolidating federal housing programs into a single block grant made directly to Indian tribes or their tribally-designated housing entities (TDHEs).

For over 17 years, NAHASDA has been the cornerstone for providing housing assistance to low-income families on Indian reservations, in Alaska Native villages, and on Hawaiian Home Lands.

#### **Essential Input from Practitioners**

Throughout 2012, NAIHC held a series of outreach meetings to gather input from tribal leaders, Indian housing professionals and advocates for consideration during reauthorization deliberations on Capitol Hill. NAIHC's input relied heavily on individuals working in tribal housing management who possess the extensive experience necessary to assess NAHASDA's original intent and to take the lead in discussions on best practices and barriers (within NAHASDA) that Indian housing directors face on a regular basis.

The outreach facilitated in-depth, ongoing discussions to assess the effectiveness of the Act, its individual components, and its rules and regulations in meeting its intended purpose(s). The objective of this extensive outreach process was to have a reauthorized Act that more effectively accomplishes its objectives.

Input from this year-long process was catalogued and developed into a consensus reauthorization bill. NAIHC maintained regular communication with Members of Congress and staff throughout this process and shared copies of provisions and reasoning for those provisions in draft legislative language. In summary, NAIHC's proposed NAHASDA reauthorization is designed to strengthen tribal self-determination and remove agency-created barriers by establishing timelines for departmental approvals and streamlining administrative processes. NAIHC has partnered with the National Congress of American Indians on NAHASDA reauthorization efforts in order to ensure tribal leadership remain at the forefront of these important legislative activities.

#### **S. 1352, To Reauthorize the Native American Housing Assistance and Self-Determination Act**

NAIHC appreciates efforts to enhance and further tribal self-determination in the NAHASDA reauthorization bill. Several proposed amendments aimed at removing barriers and streamlining processes to implement Indian housing development are not included in S. 1352, and we respectfully request they be reconsidered

- Language to enforce departmental deadlines currently set forth in NAHASDA;
- Language authorizing Indian tribes, in their discretion, to use funds appropriated to the Indian Health Service to construct sanitation facilities for housing assisted with HUD funds.
- Language clarifying that the Act's minimum rent requirement do not apply if a block grant recipient has a written policy governing rents or homebuyer payments charged for housing units, and such policy does not include a provision governing maximum rents or homebuyer payments.
- Language directing the Office of Native American Programs to develop and implement a policy that provides for Indian preference in opportunities for employment, vacancies, training and promotion.

Indian Country needs NAHASDA reauthorized because it directly affects the health of communities and well-being of Indian people nationwide. NAIHC stands ready to assist in the development and promotion of a more effective statute that will ultimately provide safe, quality, and affordable housing for tribal communities in the least restrictive manner. We encourage swift passage of NAHASDA reauthorization to provide our federal partners with the necessary tools to uphold its trust responsibility to Indian country.

#### **Conclusion**

In closing, I want to thank you Chairwoman Cantwell, Vice Chairman Barrasso, and all Members of the Committee for holding this hearing to reauthorize and extend NAHASDA to address ongoing housing challenges throughout Indian Country.

We appreciate your strong support for the NAHASDA programs and your ongoing commitment to Indian tribes and their members.

PREPARED STATEMENT OF JOBBIE M. K. MASAGATANI, CHAIRMAN, HAWAIIAN HOMES  
COMMISSION

Aloha Chairwoman Cantwell, Vice-Chairman Barrasso, and distinguished members of the Senate Committee on Indian Affairs. Thank you for this opportunity to provide this testimony on behalf of the Hawaiian Homes Commission, the Department of Hawaiian Home Lands, and the 37,000 native Hawaiian beneficiaries of our land trust. We strongly support the reauthorization of NAHASDA as it has provided tools and resources to native communities across the country to help meet the needs for safe and affordable housing.

Since the Department of Hawaiian Home Lands began receiving resources through Title VIII of NAHASDA in 2001, we have used this funding to support home construction activities (including homes, roads, sewers, street lighting, and utilities); direct loans to income-eligible families; individual development accounts; down payment assistance; subsidies for home rehabilitation; and administrative cost support to non-profits who provide self-help home construction; home repair training; financial counseling; and home energy efficiency training services. Over 1,400 low-income families have benefited from this program and, in many cases, homeownership would not have been possible without NAHASDA support.

In consideration of the \$630,000 median price of a single-family house on the island of Oahu, we are currently launching several new programs using NAHASDA funds to help families who simply cannot afford housing. One program couples the purchase packaged home kits with construction financing to provide families the opportunity to own a home for less than \$200,000. Another program under development is a rental (with option to purchase) that will leverage NAHASDA funds with low-income housing tax credits and other State resources.

Our program was established by the Hawaiian Homes Commission Act by the U.S. Congress in 1921. This Act set aside 200,000-plus acres of land in the then Federal territory to return the native people of Hawaii to their lands. The Department of Hawaiian Home Lands has administered this trust since statehood in 1959. On December 27, 2000, the Omnibus Indian Advancement Act (P.L. 106-569) amended NAHASDA by adding a new title, "Housing Assistance for Native Hawaiians." Title VIII authorized the Native Hawaiian Housing Block Grant program, which is parallel to the Indian Housing Block Grant program, and serves families eligible to reside on the Hawaiian Home Lands. Native Hawaiians share many of the same attributes as our American Indian and Alaska Native counterparts: our housing needs are significant and our trust lands require significant infrastructure to realize new housing developments.

In closing, we recognize how NAHASDA has expanded the collective capacity of tribes and native communities to address housing and infrastructure needs. Although we continue to leverage Housing Block Grant dollars with State and other Federal funding, housing needs for native Hawaiian families remain unmet. For this reason, we support the reauthorization of NAHASDA and we appreciate your continued support of housing and native communities. Mahalo nui loa.