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W. Ron Allen, Secretary
National Congress of American Indians

Oral Testimony
Before the Committee on Indian Affairs
United States Senate

Hearing on
"Predatory Lending in Indian Country"
June 5, 2008

Good morning Chairman Dorgan and members of the Committee. I am honored to be here today on behalf of the National Congress of American Indians, the nation's oldest and largest national organization of tribal governments. We hope this hearing serves to bring to light the important role Congress has in ensuring tribes are empowered to protect their citizens and give them every opportunity to advance themselves and their families.

A tribal member on a rural eastern Washington reservation obtained a pay day loan from a border town to purchase household expenses during the winter. She lives on a fixed income and raises her grandchildren. The tribal member did not realize how the loan functioned and the high costs associated with the loan. The loan came due and the tribal member paid part of the loan but continued to have an outstanding balance owned. A few days after she paid the payday loan, her rent became due to the tribal housing authority. She did not have enough money to pay the rent in full so she paid a portion of the rent but was not sufficient under her lease. Within a few days she was provided with a notice that she had not paid her rent in full and she had a meeting with her case worker as required by the tribal housing code but there was no accommodation for her because she did not have enough money to pay her rent.

The month went on and she was unable to pay the rest of the rent and what she still owed on the pay day loan. When she received her public benefits the next month she paid a portion of the pay day loan but still could not pay it off. Again she did not make her rent payment. This time, there was no meeting with a case worker; she was given an eviction summons in tribal court. The impact of an eviction from a tribal housing authority is serious because the tribal citizen can no longer rent a tribal housing authority unit leaving her no other options in her home community. In the

end this tribal member was evicted, still had a pay day her debt and had the same obligations to buy food, clothing and provide housing for her grandchildren.

Where was the due diligence? Where is the financial responsibility of the lender? And where are the regulations that used to protect our people that need it the most?

This Committee knows well that American Indian Tribes continue to occupy the bottom of key indicators of prosperity: employment, asset holdings, home ownership, educational attainment and economic progress.

Because of the persistent lack of economic opportunity, a sustainable financial services market and tribal jurisdictional issues, there have only been a handful of banks that serve tribal communities. As a result, tribal citizens continue to lack basic financial services or choices that most Americans have come to take for granted. Tribal members have limited access when financing a home, starting a business or purchasing necessary property like cars needed to make a living.

The vacuum created by the lack of responsive and regulated financial institutions offering competitive consumer financial products has been quickly filled by predatory lending firms that have proliferated after usury laws were lifted a few years ago – especially in transient and unbanked communities, like military bases and reservations.

The effect of having a tribal population unbanked and subject to predatory financial firms is that it strips an already vulnerable population of the opportunity to advance by preventing them from building assets, equity and wealth. And the result of individuals having limited and sometimes no viable options for responsive bank products means tribal citizens pay higher fees and much higher interest rates leaving tribal citizens that live check to check more vulnerable when one of life's predictable

emergencies arises such as a death in the family or medical bill, forcing a cycle of debt.

There is real concern by tribal leaders to address personal property and income loans by non-banking lending firms that target a captive Native population. The complete lack of due diligence - required in every other aspect of the financial services industry - coupled with inadequate fee and interest-rate limitations make defaults predictable and payments from a fixed income very difficult. Especially considering the debtors expenses increase, compelling multiple loans from the same limited income.

This lack of industry accountability is why banking laws and limitations were imposed in the first place and a core reason that our tribal population will be prevented from building equity and wealth through property ownership.

While families with greater means or financial education turn to regulated financial institutions or are better able to negotiate terms; those with limited means and financial experience tend to get easily caught in a cycle of debt that is all but impossible to escape on a fixed income and exponentially increasing expenses.

While the problems run deep and will take a while to work through, we feel we can focus on a 3-pronged approach to moving toward a solution.

1. Financial Choice – Indian Country is unbanked. There is a lack of regulated banking options that are responsive to tribal community needs. This tends to be true regardless of a tribe's success in building a local economy. The Community Development Financial Institutions (CDFI's) have just started to meet the needs of some tribal communities and Indian country is appreciative of the support Congress has shown by increasing CDFI funding, however, this serves a very specific and limited role in tribal communities and falls short of providing viable

2. Financial Education - Tribal governments need to be able to incorporate culturally relevant financial literacy programs at a young age to; understand fundamental credit issues and alternatives, understand the value an types of savings programs available such as "individual development accounts (IDAs)" and learn to take advantage of available programs such as "Volunteer Income Tax Assistance (VITA)" to reduce the incidence of Refund Anticipation Loans. In addition there is a need to increase the presence of Intermediaries in tribal communities. Tribal citizens need help when buying a car, financing a mobile home or accessing a micro-loan to start a business. Intermediaries are under-represented in Indian country. These non-profits serve a key role in guiding consumers to make better financial and life decisions.

3. Jurisdiction – Non-bank lenders tend to cluster around reservations and military bases taking full advantage of financially unsophisticated consumers. To protect our soldiers and sailors on federal military bases from the irresponsible practices of payday lenders, car dealerships and tax preparers, Congress passed a bill that places a cap on non-bank loans to the military personnel. Congress should consider giving tribes the same capability to protect their citizens with the ability to opt into models such as the military fix. Congress should also consider promoting responsive community banking in tribal communities by giving tribes the authority to approve banks that do business on their reservations in a manner similar to state governments.

Because we have been unbanked and under-banked for so long, we may appreciate having a lender of any sort serve the need in tribal communities. But do we really

need to settle for lenders that that are not part of our community like every other bank? And do we need to settle for loan shark rates with no consideration for an individual's ability to pay?

We need to fix the underlying problems. We need jurisdiction, we need financial literacy and we need banks, credit unions, CDFI's and non-profits in Indian country. Our citizens deserve better.