**UNITED STATES SENATE**

**COMMITTEE ON INDIAN AFFAIRS**

**TESTIMONY OF Robert Gauthier**

***“LOAN LEVERAGING IN INDIAN COUNTRY”***

**February 4, 2015**

Thank you, Chairman Barrasso, and other members of the Committee for the opportunity to address you today concerning what I believe is the number one impediment to growth in Indian Country.

When I hear the term Indian Country, I think of tribal lands under the jurisdiction of duly elected officials from Federally Recognized Tribes. I believe Indians living in other parts of the United States have needs related to available credit too, but for today’s comments; I would like to focus on Indian Reservations and Trust land.

In 1993, when the **NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKAN NATIVE AND NATIVE HAWAIIAN HOUSING** completed 18 months of Hearings and published its Report: **A BLUEPRINT FOR CHANGE**, the primary recommendations for Congressional action outlined changes to making credit more available for American Indians across the Nation with a special emphasis on the impediments of Trust land.

HUD did its job during the Clinton Administration and developed the Native American Housing Assistance and Self Determination Act (NAHASDA), introduced by New York Congressman Rick Lazio, which for the first time, provided capital those Tribes could use to leverage other Housing Resources. Over 40 of the Commission’s recommendations were incorporated into NAHASDA. As a bonus, Title VI of NAHASDA provided incentive for Banks to lend to Tribes with a 95% guarantee! Congress also responded thanks to Nebraska Congressman Doug Bereuter and his staff, and passed the HUD 184 program. For the first time, Indians on reservations had available to them a market rate loan product! I believe most Indian Housing practitioners and housing experts expected lending to Native Americans to take hold in a dramatic fashion. And it has, unless you happen to live on Trust land.

In my opinion, nearly 22 years later, remote tribes on Trust land are still not making significant progress establishing sustainable lending programs. The result is that they continue to have a significant waiting list with diminishing subsidy. I wish it were different. Many will talk about the success of the HUD 184 program. The program has now grown to over $4 Billion in loans to Indians. That shows the need. However, an Indian living in Spokane Washington has many market rate loan products. He is however, able to take advantage of a program designed for developing markets and by its design was not as rigorous as other loan programs. If you happen to be an Indian living in Browning Montana on Trust land, the HUD 184 may be your only market rate option. My concern is that as the program grows, more and more it will resemble conforming loans without the flexibility and affordability developing Tribes and its members still require.

USDA has still not come to the table with nationwide lending products adapted to unique tribal governmental requirements. In Montana, the Salish and Kootenai Tribes have an unresolved dispute with USDA regarding a couple of minor provisions in USDA required lease agreements on Trust Land. They have been unwilling to compromise. Indian Country badly needs the several loan and grant programs USDA administers. In most states, active partnerships with USDA do not exist. Tribes need exposure and training on these programs.

In 1993 Treasury told HUD at an Indian Housing Leverage meeting that there was no need for the Administration to develop a new GSE dedicated to Indian Housing. HUD had been working on a draft of a Native American Finance Authority, when Treasury assured participants that the new CDFI legislation would not only provide capital, but also technical assistance to overcome the imperfections in Indian lending on Trust lands. Still, it is not happening.

After nearly 33 years working in Indian Housing, I am convinced that overcoming the challenges of lending on Trust land is the key to solving the housing crisis on Americas Indian reservations. In fact, solving the housing lending puzzle will open up streams of capital for economic development as well. I know because the Confederated Salish and Kootenai Tribes developed a revolving loan program in the 1940s that today provides over 600 members of that Tribe access to mortgages on Trust Land. Their model is largely responsible for the high number of 184 Loans made in Montana as well. The membership is gaining wealth with nearly 70% of families owning their own home.

Over the past 20 years I have learned also that capacity at the Tribal level is another critical component of success with developing sustainable lending on Tribal Trust land. The Confederated Salish and Kootenai Tribe operate its own Land Titles and Records Office (LTRO) under a contract with the Bureau of Indian affairs. They have developed reliable closing processes that are similar to closings on fee simple lands. I believe this too is a critical factor. I am surprised that Tribes asked Congress to pass the HEARTH Act in 2012, yet only two tribes across the Nation have developed BIA approved Regulations!

In closing, I would like to recommend that this Committee work with the Tribes that have had success in developing functioning lending systems incorporating Trust lands and dedicate resources to provide a step by step guidance for developing tribes to follow.