



**Prepared Testimony of Thomas Lozano, Chairman of the Board of Directors
National American Indian Housing Council
to the
U.S. Senate Committee on Indian Affairs
Oversight Hearing on
Native Communities' Priorities for the 118th Congress**

March 8, 2023

Good Afternoon. My name is Thomas Lozano, and I am the Chairman of the Board of Directors of the National American Indian Housing Council. I am a member of the Enterprise Rancheria which are Maidu people, and I currently serve as the Treasurer of the Tribal Council and sit on the Board of Commissioners for the Enterprise Rancheria Indian Housing Authority. I want to thank Chairman Schatz, Vice Chair Murkowski, and all committee members for having this hearing today and for recognizing and understanding that tribal housing issues and the reauthorization of the Native American Housing Assistance and Self-Determination Act (NAHASDA) are important priorities for this 118th Congress. I also want to thank this Committee for always working to ensure the United States is fulfilling its trust and treaty obligations towards Indian Country with respect to providing safe, affordable housing opportunities in tribal communities and to Native people anywhere in the country.

Background on the National American Indian Housing Council

The NAIHC was created by tribal housing programs in 1974 and for nearly five decades has provided invaluable Training and Technical Assistance (T&TA) to all tribes and tribal housing entities; provided information to Congress regarding the issues and challenges that tribes face in their housing, infrastructure, and community development efforts; and worked with key federal agencies to ensure their programs' effectiveness in native communities. Overall, NAIHC's primary mission is to promote and support American Indians, Alaska Natives and native Hawaiians in their self-determined goal to provide culturally relevant and quality affordable housing for Native people.

The membership of NAIHC is comprised of 292 members representing 493¹ tribes and tribal housing organizations. NAIHC's membership includes tribes and tribally-designated

¹ There are 574 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

housing entities throughout the United States, including Alaska and Hawaii. Every member of this Committee serves constituents that are members of NAIHC, either directly through tribes located in your States, or generally through the United States' government-to-government relationship with all tribes within the United States. NAIHC's members are deeply appreciative of your work to improve the lives of Indigenous Peoples throughout the Country.

Profile of Indian Country

There are 574 federally-recognized Indian tribes in the United States. Despite progress over the last few decades, many tribal communities continue to suffer from some of the highest unemployment and poverty rates in the United States. Historically, Native Americans in the United States have also experienced higher rates of substandard housing and overcrowded homes than other demographics.

The U.S. Census Bureau reported in the 2019 American Community Survey data that American Indians and Alaska Natives were almost twice as likely to live in poverty as the rest of the population — 23.0 percent compared with 12.3 percent. The median income for an American Indian Alaska Native household is 30% less than the national average (\$45,476 versus \$65,712).

In addition, overcrowding, substandard housing, and homelessness are far more common in Native American communities. In January 2017, the Department of Housing and Urban Development (HUD) published an updated housing needs assessment for tribal communities. According to the assessment, 5.6 percent of homes on Native American lands lacked complete plumbing and 6.6 percent lacked complete kitchens. These are nearly four times than the national average, which saw rates of 1.3 percent and 1.7 percent, respectively. The assessment found that 12 percent of tribal homes lacked sufficient heating.

The assessment also highlighted the issue of overcrowded homes in Indian Country, finding that 15.9 percent of tribal homes were overcrowded, compared to only 2.2 percent of homes nationally. The assessment concluded that to alleviate the substandard and overcrowded homes in Indian Country, 68,000 new units need to be built.

Since the Native American Housing Assistance and Self-Determination Act (NAHASDA) was enacted in 1996, tribes have built over 37,000 new units according to HUD. However, as the appropriations for the Indian Housing Block Grant (IHBG) (established by NAHASDA) have remained level for a number of years, inflation has diminished the purchasing power of those dollars, and new unit construction has diminished as tribes focus their efforts on existing unit rehabilitation. While averaging over 2,400 new unit construction between FY2007 and 2010, new unit construction has dropped in recent years with only 2,000 new units between 2011 and 2014, and HUD estimating less than 1,000 new units in future years as tribes maintain existing housing stock over new development.

assistance under the 1937 Housing Act and that were subsequently provided funding pursuant to 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.

Status of Housing Opportunities for Native Americans

There remains a large unmet need for quality, affordable housing in tribal communities. As members of the committee are aware, there is a housing shortage across the country, and that is definitely true for Native communities. With a lack of consistent data collection year-to-year, NAIHC is largely relying on the American Indian, Alaska Native and Native Hawaiian Housing Needs Study, published by HUD in January 2017. The report identified an unmet need of 68,000 units to address overcrowded and substandard housing conditions. With new housing construction or acquisition fairly stagnant around 1,000 new units per year in tribal communities across the United States. It is unlikely the unmet need has changed. Additionally, many of NAIHC's members have opined that they believe the 2017 Study's unmet need calculation is underestimated.

The large unmet need is persistent, growing, and largely due to insufficient resources to address reversing the trends. In 2018, the United States Commission on Civil Rights updated its "Broken Promises" report first released in 2003, and found that housing conditions had deteriorated, with the number of overcrowded households or households with inadequate plumbing growing by 21 percent, and the number of families facing severe housing costs growing by 55 percent.

Despite these trends moving in the wrong direction, Congress has been decreasing the amounts of housing assistance to tribal communities each year through stagnant funding of NAHASDA programs while inflation has grown over the past 20 years. In FY20, Congressional IHBG formula funding of \$650 million provided roughly two-thirds the purchasing power that tribes received at the inception of NAHASDA in FY98 (\$600 million in FY 1998). Tracking IHBG funding since NAHASDA's passage revealed that annual appropriations compared to inflation-adjusted levels have caused tribal housing programs to lose \$3.4 billion since FY 1998. Recent funding additions to NAHASDA programs, such as the competitive IHBG funding, are welcome and encouraging, but alone are insufficient to make up for the loss of funding over time.

To put the funding in another perspective, the FY2021 IHBG funding levels provide 379 tribes/grantees with less than \$500,000 to operate their housing program, which includes managing their existing housing units, providing low-income rental assistance, other housing services *AND* developing new housing units. Further, 175 of the IHBG grantees received less than \$100,000 a year to carry out these activities. While some of the tribes form umbrella organizations to create efficiencies, it should be easy to see why we're not making much progress against the levels of unmet need.

While the funding of NAHASDA programs continues to be an issue, the program itself is helpful to tribes and over the years has built the capacity of tribal housing programs across the country. Tribes have been able to rely on consistent, dedicated funding through NAHASDA for over 20 years, which has allowed them to create housing programs and develop and train dedicated staff to operate those housing programs. The success of tribal housing programs was evident early on in NAHASDA, when tribes were producing new housing units at rates similar to or higher than HUD prior to NAHASDA's enactment. NAHASDA has also increased the local control of funding as it is the tribes themselves that develop their own Indian Housing Plan for

the communities. These plans are tailored to the individual tribe's priorities for housing and have provided the flexibility tribes need to carry out their programs. For example, a tribe could prioritize senior assisted housing, rental assistance, or homeownership, and they would do so by incorporating those services into their Indian Housing Plan.

It is with that upgraded capacity of tribal housing programs provided for by NAHASDA that we can begin to look at the full landscape of federal housing resources and programs. HUD itself has numerous housing programs and resources, some general, some tribe-specific. Tribal programs include the Indian Community Development Block Grant (ICDBG), the HUD 184 Native American Loan Guarantee Program, NAHASDA Title VI Loan Guarantee Program, the formula funded and competitive IHBG programs, and Native Hawaiian programs. Other HUD programs have varying levels of eligibility for tribes, and NAIHC has advocated both to Congress and with our federal partners to improve tribal access to these more national-scope programs. The best example is the HUD Housing Counseling program, which tribes are currently ineligible to apply for funds but may soon find themselves subject to housing counseling regulations not tailored for tribal communities. Another example is the Continuum of Care program, which was addressed by Congress through the inclusion of the Tribal Access to Homeless Assistance Act in the FY2021 Consolidated Appropriations Act and which tribes are now eligible to participate in.

In addition to HUD, tribes can find housing resources at the U.S. Treasury, such as tax credit programs and the recently created Emergency Rental Assistance Program and Homeowner Assistance Funds; the U.S. Department of Agriculture and its Rural Housing programs; the Veterans Administration and its Native American Direct Loan Program; and others.

NAHASDA was passed in 1996 to streamline tribes' access to housing programs dollars by consolidating multiple programs into a single block grant. However, with the lack of increased appropriations to NAHASDA programs, tribes are again piecing their housing programs together by finding resources from different programs across the federal government. In a 2018 survey conducted by NAIHC, only 17% of our members who responded indicated they planned to utilize non-HUD funds in their programs. So while there are various resources available to tribes, it takes a lot of work to gather these pieces and leverage it with multiple funding opportunities, while also operating the day-to-day housing program and caring about the community.

Priorities for 118th Congress

Reauthorization of NAHASDA, increased resources: NAHASDA was last reauthorized in 2008 and expired in 2013. While Congress has continued to provide funding to NAHASDA programs, and even increased some program funding in the last few years, there are some programmatic changes that recent reauthorization bills contain that could streamline various aspects of HUD and IHBG programs. For example, one long-standing fix would address duplicative environmental reviews, which tribes often face when they leverage multiple federal funding sources. Recent reauthorization bills have also contained provisions to create an Assistant Secretary for Indian Housing to provide enhanced attention at the senior leadership of HUD.

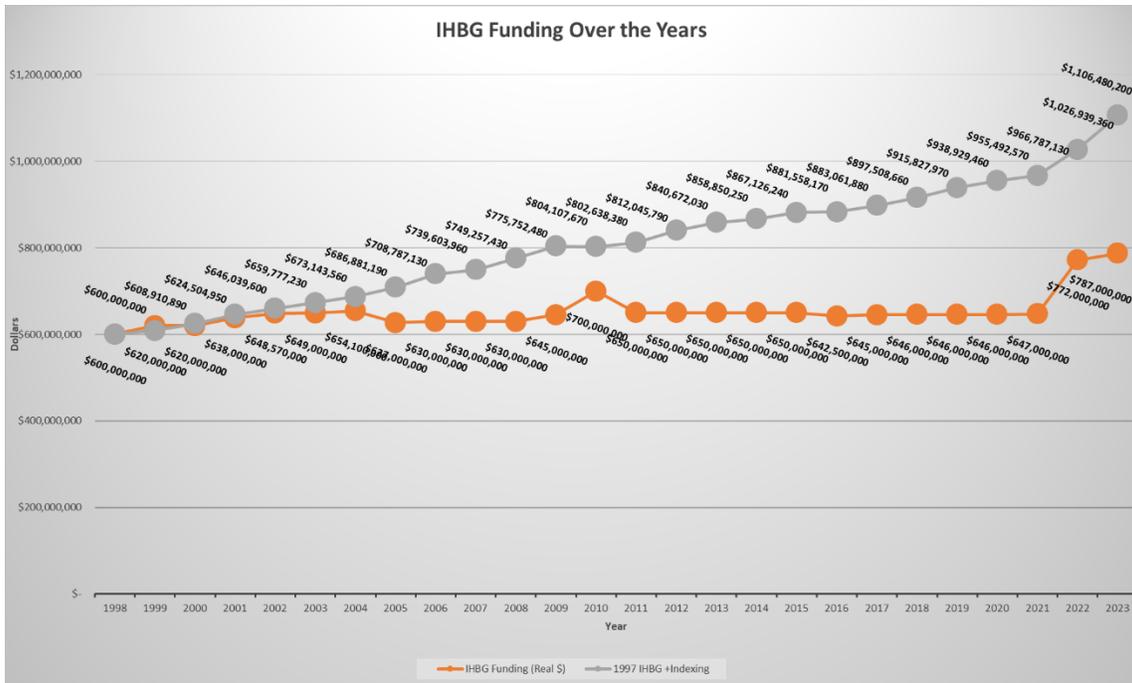
The Senate reauthorization bills from the 117th Congress also have several important leveraging provisions that allow tribal housing projects to utilize the Indian Health Service's Sanitation funds, provide access to HUD Housing Counseling grants, and encourage leveraging other federal funds by relaxing match requirements. Other smaller fixes include simplifying Total Development Cost allowances, clarifying the rent-to-ownership process and allowing tribes to assist with student housing. One provision related to promoting tribal sovereignty and self-determination, a key component of NAHASDA, would allow tribes to set minimum rent rates for its housing units, and NAIHC supports its continued inclusion in NAHASDA reauthorization efforts.

NAIHC recognizes the progress that has been made on getting NAHASDA reauthorization enacted, and particularly would like to thank the Chair and Vice Chair of the Senate Committee on Indian Affairs for their efforts.

While NAIHC supports the latest versions of NAHASDA reauthorization bills and amendments, there are several provisions that Congress should also consider. A prior version of NAHASDA, H.R. 5319 in the 116th Congress, contained several provisions that garnered bipartisan support. That bill had 35 bipartisan cosponsors. One key provision of that bill would create tribal set-asides for several USDA Rural Housing programs. These programs serve rural and low-income populations across the United States but they have not been very effective in tribal communities. Specific set-asides for tribal communities, coupled with incorporating Native CDFIs and tribal programs on the ground at the local level, would guarantee that these Rural Housing programs reach tribal communities.

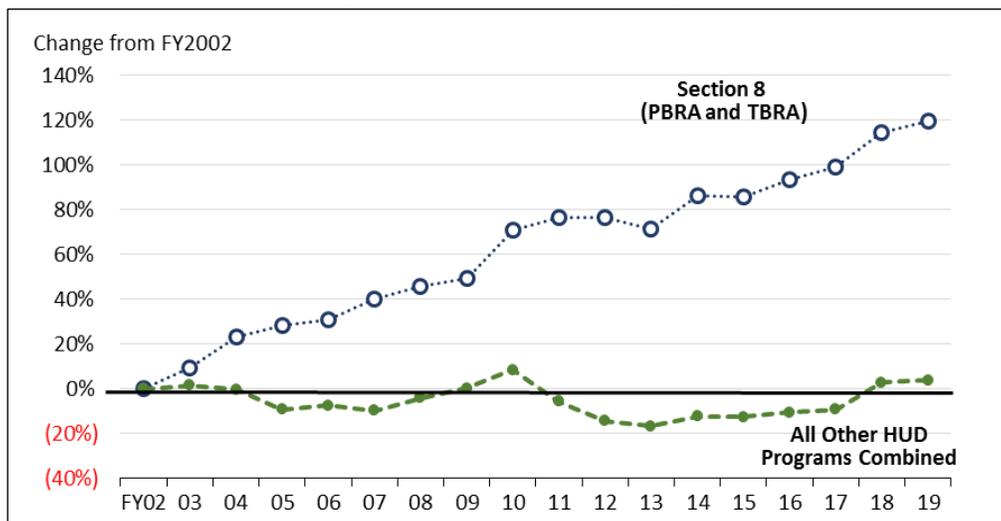
H.R. 5319 also included a fix for a court jurisdiction issue regarding the HUD 184 Loan Guarantee program. This provision would have clarified that tribal courts are proper jurisdiction, along with other courts, for certain foreclosure proceedings, and it would have allowed the Department of Justice flexibility in contracting attorneys familiar with tribal courts to carry out any such work. The bill also included an important parity provision that would exempt tribal programs from the National Flood Insurance Program, similar to the exemption that state housing programs currently enjoy. NAIHC encourages that these provisions be considered in a NAHASDA package.

Outside of reauthorizing NAHASDA, NAIHC's priority for this Congress is to increase funding and resources provided to tribes and tribal housing programs. Congress has increased funding for the Indian Housing Block Grant by 20 percent over the past three years and that is a welcome trend. However, prior to the recent increase, NAHASDA funds were stagnant for over 20 years, allowing inflation to eat away at the only dedicated funding stream for tribal housing programs. Even today, with the increases, tribal housing programs only have 71% of the purchasing power they had in 1998 with original funding under NAHASDA. Over the 25 years of NAHASDA, tribal housing programs have lost out on over \$4 billion dollars without program funding keeping pace with inflation. The graph below shows the IHBG funding levels compared to the original funding indexed for inflation.



Inflation is not the only metric by which funding for tribal housing is falling behind. NAHASDA funding in 2000 was nearly 2.5% of the entire HUD budget (\$600 million vs. \$25 billion). In FY23 that has dropped to only 1.2% (\$787 million vs. \$65 billion). The large portion of growth in the HUD budget has been related to the Section 8 voucher program, which tribes specifically gave up access to as part of NAHASDA. Unfortunately, if tribes had retained access to that program, tribal communities would have seen some of that growth that they have not received under NAHASDA. The graph below from CRS shows the growth of Public Housing Section 8 program versus all other HUD programs.

Figure 4. Cumulative Percentage Change Since 2002 in Annual Appropriations for Section 8 Programs, Compared to All Other HUD Programs Combined
(based on changes in nominal \$)



Source: CRS analysis of congressional funding data contained in conference reports accompanying annual appropriations acts. See **Table A-1** for data.

Congress must increase the resources we provide to tribal housing programs to overcome the high rates of overcrowding and substandard homes. Development costs continue to increase and tribes are not receiving enough resources to maintain their existing housing stock and development new affordable housing units.

Other Improvements to existing Housing Programs

Make HUD-VASH Permanent and Expand to All Tribes: Currently, only 26 tribes have participated in the Tribal HUD-VASH program, which provides both housing and supportive services to tribal veterans and their families that are homeless or at-risk of homelessness. HUD-VASH is another example of a larger, national housing program that originally left tribal communities out when it was created in 2008. Congress expanded the program through a tribal demonstration project beginning in FY 2015. The program has identified obstacles, such as the lack of housing stock in tribal communities to house veterans through the program and the need for greater supportive services from the VA to native veterans in tribal communities. Many of the tribes participating in the pilot have found ways to provide these supportive services through various partnerships between the VA and tribal or IHS professionals and tribes may be more able to secure housing units for the program if it was made permanent and tribes had more certainty for future funding of the program.

It is well known that Native Americans have served in the United States Armed Forces at higher rates than any other demographic, so it is vital that Native veterans are provided the support they deserve and have earned through their service. Native veterans are not limited to the 26 tribes that have participated in the program, and we look forward to working with Congress to ensure the program is expanded to include all tribes and their veterans. The full Senate has passed the Tribal HUD-VASH Act in each of the last two Congresses and has faced some obstacles in the House. NAIHC will continue to work to address any outstanding issues to make sure HUD-VASH is made permanent and working for all tribal communities.

Section 184 Loan Guarantee Program: The 184 Loan Guarantee program helps a tribe or tribal member secure a mortgage for an existing or new-construction home by providing a loan guarantee to a private sector bank or lending institution. While the program is targeted to tribal communities and nearby service areas, the program has struggled to incentivize mortgages on trust lands in tribal communities, where many families reside on land their families have held for generations. Obstacles include a slow and burdensome title process involving the Department of the Interior's Bureau of Indian Affairs and banks and lenders' general preference to work with the more familiar property held "in fee". Improvements include streamlining the process at the BIA, encouraging more private lenders to participate in the program generally and participate through mortgages specifically on trust lands.

State housing programs and passthroughs: Several federal programs, notably the Low Income Housing Tax Credits and the Housing Trust Fund, establish funds or processes that operate at the state-level. While many of these states utilize the unmet housing needs in tribal communities to improve their allocations, there is not necessarily a mechanism that requires the states to prioritize tribal areas in receiving the final benefit of these federal housing programs. The result is a mix of effectiveness of these programs in tribal communities, where the relationship between

state and tribal officials can greatly affect the final impact of these programs for tribes. In states where we see tribal or rural areas receiving some type of allocation or increased application scores, tribes have been successful in developing new projects with these federal funds.

However, there is often a blind eye turned to tribal communities (and not always intentional) as state programs often believe tribal housing issues are a federal issue, or that the tribe can rely on direct federal funding. This is not unique to states, as even non-HUD federal housing programs can omit tribal communities, believing that tribes can rely solely on NAHASDA or BIA programs to meet their community housing needs.

Training and Technical Assistance: The current model of TTA to tribal housing programs requires tribes to submit requests to HUD offices. Those requests are then analyzed and then submitted to national or regional TTA providers, of which NAIHC is one of several. However, the model likely discourages tribes to request TTA as they would be submitting requests to the same federal agency that oversees their program implementation or funding. NAIHC believes that providing more flexibility to the TTA providers to receive and respond to tribal TTA requests directly can improve the delivery of those services and encourage tribal housing programs to actually address their training needs.

Restore Access to Section 8 Vouchers: Prior to NAHASDA, many tribes have been receiving tenant-based vouchers to provide low-income rental assistance to members in tribal communities. With NAHASDA providing the single block grant to tribes, NAHASDA expressly restricted tribes from accessing vouchers moving forward. However, with NAHASDA funds remaining stagnant (or decreasing due to inflation), tribes find it difficult to provide the same low-income rental assistance year-to-year or to expand that assistance as new housing units come online in their communities. Congress routinely adds vouchers to the larger national program to keep pace with the need, or to fund existing vouchers adequately each year, while tribal programs have no similar mechanism. While the restriction on section 8 vouchers could be removed entirely, past NAIHC resolutions have called for the specific restoration of vouchers for LIHTC projects in tribal communities, as the two programs work together well in the non-tribal setting.

Improve the Effectiveness of non-HUD housing programs in Indian Country: As stated above, there are several federal housing programs established outside of HUD. While these programs are often national in scope, the lack of attention paid by these programs to tribal communities often limits their impact for native families. For instance, USDA Rural Housing programs are tailor made for rural areas, and often are targeted to low-income families, yet their reach to tribal communities has been limited. Often this is due to USDA program staff not geographically located near the tribal community or limited outreach to families in those tribal communities. We're often asking our overburdened tribal housing professionals to know the USDA programs well enough to connect those families with USDA resources. A recent pilot project in South Dakota has allowed the USDA 502 Single Family Home Loan program to lend to Native CDFIs as intermediaries, while those Native CDFIs carry out the lending directly in tribal communities. This has been successful, with the Native CDFIs largely maxing out their mortgage lending with the funding available under the pilot. This on-the-ground presence in tribal communities as well as the comfort level of native families working with native housing professionals has allowed more native families to access USDA resources. This model could be expanded both throughout

USDA Rural Housing programs and through other federal housing programs, such as the VA's Native American Direct Loan Program. The NADLP program only have 7-10 staff to market the program and serve Native American veterans in all 574 tribal communities across the country. As a result of the lack of presence of that program, very few mortgage loans are provided to Native veterans each year.

Further incentivize private investment in tribal communities: Indian Country is almost always last to receive the attention of private, commercial banking. The lack of economies of scale in tribal communities, increased development costs, and the complexities of tribal lands and communities (both actual and perceived) simply lead private banking to avoid tribal areas. While there have been national tax credit programs or other incentives available for years to spur development in underserved areas, the programs have generally been less effective for Indian Country. Strengthening incentives for development in Indian Country or creating specific set-asides or mandates through these programs is needed to ensure that tribal communities are not left further behind.

Including Indian Country in Infrastructure Packages: Development costs are higher in Indian Country. The rural nature of most tribal communities and the lack of pre-existing roads, water, electricity and other infrastructure increase the cost of developing new housing. As Congress works to address the infrastructure needs of the entire nation, it must recognize the lack of infrastructure funding over decades to tribal communities and include Indian Country appropriately. While NAIHC believes infrastructure should include housing resources directly, any investments in infrastructure in tribal communities will improve tribal housing programs' ability to plan and develop new housing construction in the future.

Conclusion

NAIHC wants to thank the members of this Committee for holding this important hearing and we want to thank all the members of Congress who have introduced and sponsored bills and supported efforts to improve housing opportunities in tribal communities. Tribes have consistently shown how far they can stretch their housing dollars to help the most members of their community as possible, and NAIHC and tribal housing programs look forward to working with our partners in Congress and Federal agencies to continue building safe, affordable housing in our communities. NAIHC asks for the Committee's support to reauthorize NAHASDA, increase funding to critical tribal housing programs, and help address the incredible need for housing units and developments across Indian Country.