

NATIVE AMERICAN CONNECTIVITY ACT

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

S. 2382

TO ESTABLISH GRANT PROGRAMS FOR THE DEVELOPMENT OF
TELECOMMUNICATIONS CAPACITIES IN INDIAN COUNTRY

MAY 20, 2004
WASHINGTON, DC



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NATIVE AMERICAN CONNECTIVITY ACT

THURSDAY, MAY 20, 2004

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

The committee met, pursuant to notice, at 10:23 a.m. in room 485, Russell Senate Building, Hon. Daniel K. Inouye (vice chairman of the committee) presiding.

Present: Senator Inouye.

STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator INOUE. The committee meets this morning to receive testimony on S. 2382, the Native American Connectivity Act. The bill would provide support in the form of grants to tribal governments for the development of the necessary telecommunications infrastructure so that Native communities can have access to basic telephone service, the Internet, to broadband, and wireless technology.

The Federal Communications Commission estimates, based on the 2000 Census data, that on average only 67.9 percent of Indian households on tribal reservations have telephone service. That data also indicates that while telephone penetration rates vary from State to State, only 49.9 percent of Indian reservation households in Arizona have telephone service. Even on reservations or Indian trust lands, non-Indian homes are more likely to have telephone service than Indian homes.

Only 10 percent of American Indian households on tribal lands have access to the Internet, and only 17 percent of the tribal governments across the Nation have developed comprehensive technology plans.

A technology infrastructure study conducted 1 year before the 2000 census by the Economic Development Administration found that only 39 percent of rural Indian households had computers, compared with 42 percent nationally and 8 percent of Indian households had access to the Internet, compared with 15 percent nationally.

So these are the conditions that this bill seeks to address by providing the much-needed support to tribal governments that will enable them to bring their citizens and other residents of their communities into the 21st century.

[Text of S. 2382 follows:]

108TH CONGRESS
2D SESSION

S. 2382

To establish grant programs for the development of telecommunications capacities in Indian country.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2004

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To establish grant programs for the development of telecommunications capacities in Indian country.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American
5 Connectivity Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1)(A) disparities exist in the areas of edu-
9 cation, health care, workforce training, commerce,

1 and economic activity of Indians due to the rural na-
2 ture of most Indian reservations; and

3 (B) access to basic and advanced telecommuni-
4 cations infrastructure is critical in eliminating those
5 disparities;

6 (2) currently, only 67.9 percent of Indian
7 homes have telephone service, compared with the na-
8 tional average of 95.1 percent;

9 (3) the telephone service penetration rate on
10 some reservations is as low as 39 percent;

11 (4) even on reservations and trust land, non-In-
12 dian homes are more likely to have telephone service
13 than Indian homes;

14 (5) only 10 percent of Indian households on
15 tribal land have Internet access;

16 (6) only 17 percent of Indian tribes have devel-
17 oped comprehensive technology plans;

18 (7) training and technical assistance have been
19 identified as the most significant needs for the devel-
20 opment and effective use of telecommunications and
21 information technology in Indian country;

22 (8) funding for telecommunications and infor-
23 mation technology projects in Indian country re-
24 mains inadequate to address the needs of Indian
25 communities;

1 (9) many Indian tribes are located on or adja-
2 cent to Indian land in which unemployment rates ex-
3 ceed 50 percent;

4 (10) the lack of telecommunications infrastruc-
5 ture and low telephone and Internet penetration
6 rates adversely affects the ability of Indian tribes to
7 pursue economic development opportunities; and

8 (11) health care, disease prevention education,
9 and cultural preservation are greatly enhanced with
10 access to and use of telecommunications technology
11 and electronic information.

12 **SEC. 3. PURPOSES.**

13 The purposes of this Act are—

14 (1) to promote affordable and universal access
15 among Indian tribal governments, tribal entities, and
16 Indian households to telecommunications and infor-
17 mation technology in Indian country;

18 (2) to encourage and promote tribal economic
19 development, self-sufficiency, and strong tribal gov-
20 ernments;

21 (3) to enhance the health of Indian tribal mem-
22 bers through the availability and use of telemedicine
23 and telehealth; and

24 (4) to assist in the retention and preservation
25 of native languages and cultural traditions.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) **BLOCK GRANT.**—The term “block grant”
4 means a grant provided under section 5.

5 (2) **ELIGIBLE ACTIVITY.**—The term “eligible
6 activity” means an activity carried out—

7 (A) to acquire or lease real property (in-
8 cluding licensed spectrum, water rights, dark
9 fiber, exchanges, and other related interests) to
10 provide telecommunications services, facilities,
11 and improvements;

12 (B) to acquire, construct, reconstruct, or
13 install telecommunications facilities, sites, or
14 improvements (including design features), or
15 utilities;

16 (C) to retain any real property acquired
17 under this Act for tribal communications pur-
18 poses;

19 (D) to pay the non-Federal share required
20 by a Federal grant program undertaken as part
21 of activities funded under this Act;

22 (E) to carry out activities necessary—

23 (i) to develop a comprehensive tele-
24 communications development plan; and

25 (ii) to develop a policy, planning, and
26 management capacity so that an eligible

1 entity may more rationally and
2 effectively—

3 (I) determine the needs of the
4 entity;

5 (II) set long term and short term
6 goals;

7 (III) devise programs and activi-
8 ties to meet the goals of the entity, in-
9 cluding, if appropriate, telehealth;

10 (IV) evaluate the progress of the
11 programs and activities in meeting the
12 goals; and

13 (V) carry out management, co-
14 ordination, and monitoring of activi-
15 ties necessary for effective planning
16 implementation;

17 (F) to pay reasonable administrative costs
18 and carrying charges relating to the planning
19 and execution of telecommunications develop-
20 ment activities, including the provision of infor-
21 mation and resources about the planning and
22 execution of the activities to residents of areas
23 in which telecommunications development ac-
24 tivities are to be concentrated;

1 (G) to increase the capacity of an eligible
2 entity to carry out telecommunications activi-
3 ties;

4 (H) to provide assistance to institutions of
5 higher education that have a demonstrated ca-
6 pacity to carry out eligible activities;

7 (I) to enable an eligible entity to facilitate
8 telecommunications development by—

9 (i) providing technical assistance, ad-
10 vice, and business support services (includ-
11 ing services for developing business plans,
12 securing funding, and conducting market-
13 ing); and

14 (ii) providing general support (includ-
15 ing peer support programs and mentoring
16 programs) to Indian tribes in developing
17 telecommunications projects;

18 (J) to evaluate eligible activities to ascer-
19 tain and promote effective telecommunications
20 and information technology deployment prac-
21 tices and usages among Indian tribes; or

22 (K) to provide research, analysis, data col-
23 lection, data organization, and dissemination of
24 information relevant to telecommunications and
25 information technology in Indian country for

1 the purpose of promoting effective telecommuni-
2 cations and information technology deployment
3 practices and usages among tribes.

4 (3) ELIGIBLE ENTITY.—The term “eligible en-
5 tity” means—

- 6 (A) an Indian tribe;
- 7 (B) an Indian organization;
- 8 (C) a tribal college or university;
- 9 (D) an intertribal organization; or
- 10 (E) a private or public institution of higher
11 education acting jointly with an Indian tribe.

12 (4) INDIAN TRIBE.—The term “Indian tribe”
13 has the meaning given the term in section 4 of the
14 Indian Self-Determination and Education Assistance
15 Act (25 U.S.C. 450b).

16 (5) SECRETARY.—The term “Secretary” means
17 the Secretary of Commerce.

18 (6) TECHNICAL ASSISTANCE.—The term “tech-
19 nical assistance” means the facilitation of skills and
20 knowledge in planning, developing, assessing, and
21 administering eligible activities.

22 (7) TRAINING AND TECHNICAL ASSISTANCE
23 GRANT.—The term “training and technical assist-
24 ance grant” means a grant provided under section
25 6.

1 (8) TRIBAL COLLEGE OR UNIVERSITY.—The
2 term “tribal college or university” has the meaning
3 given the term “tribally controlled college or univer-
4 sity” in section 2 of the Tribally Controlled Commu-
5 nity College Assistance Act of 1978 (25 U.S.C.
6 1801), except that the term also includes an institu-
7 tion listed in the Equity in Educational Land-Grant
8 Status Act of 1994 (7 U.S.C. 301 note).

9 (9) TELEHEALTH.—The term “telehealth”
10 means the use of electronic information and tele-
11 communications technologies to support long-dis-
12 tance clinical health care, patient and professional
13 health-related education, public health, and health
14 administration.

15 **SEC. 5. BLOCK GRANT PROGRAM.**

16 (a) ESTABLISHMENT.—There is established within
17 the National Telecommunications and Information Ad-
18 ministration a Native American telecommunications block
19 grant program to provide grants on a competitive basis
20 to eligible entities to carry out eligible activities under sub-
21 section (c).

22 (b) BLOCK GRANTS.—The Secretary may provide a
23 block grant to an eligible entity that submits a block grant
24 application to the Secretary for approval.

1 (c) ELIGIBLE ACTIVITIES.—A grant under this sec-
2 tion may only be used for an eligible activity.

3 (d) REGULATIONS.—Not later than 180 days after
4 the date of enactment of this Act, the Secretary shall pro-
5 mulgate regulations establishing specific criteria for the
6 competition conducted to select eligible entities to receive
7 grants under this section for each fiscal year.

8 **SEC. 6. TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

9 (a) NOTIFICATION AND CRITERIA.—The Secretary—

10 (1) shall provide notice of the availability of
11 training and technical assistance grants; and

12 (2) publish criteria for selecting recipients.

13 (b) GRANTS.—The Secretary may provide training
14 and technical assistance grants to eligible entities with a
15 demonstrated capacity to carry out eligible activities.

16 (c) USE OF FUNDS.—A training and technical assist-
17 ance grant shall be used—

18 (1) to develop a training program for tele-
19 communications employees; or

20 (2) to provide assistance to students who—

21 (A) participate in telecommunications or
22 information technology work study programs;
23 and

24 (B) are enrolled in a full-time graduate or
25 undergraduate program in telecommunications-

1 related education, development, planning, or
2 management.

3 (d) SETASIDE.—

4 (1) IN GENERAL.—For each fiscal year, the
5 Secretary shall set aside \$2,000,000 of the amount
6 made available under section 12 for training and
7 technical assistance grants, to remain available until
8 expended.

9 (2) TREATMENT.—A training and technical as-
10 sistance grant to an entity shall be in addition to
11 any block grant provided to the entity.

12 (e) PROVISION OF TECHNICAL ASSISTANCE BY THE
13 SECRETARY.—The Secretary may provide technical assist-
14 ance, directly or through contracts, to—

15 (1) tribal governments; and

16 (2) persons or entities that assist tribal govern-
17 ments.

18 **SEC. 7. COMPLIANCE.**

19 (a) AUDIT BY THE COMPTROLLER GENERAL.—

20 (1) IN GENERAL.—The Comptroller General of
21 the United States may audit any financial trans-
22 action involving grant funds that is carried out by
23 a block grant recipient or training and technical as-
24 sistance grant recipient.

1 (2) SCOPE OF AUTHORITY.—In conducting an
2 audit under paragraph (1), the Comptroller General
3 shall have access to all books, accounts, records, re-
4 ports, files, and other papers, things, or property be-
5 longing to or in use by the grant recipient that re-
6 late to the financial transaction and are necessary to
7 facilitate the audit.

8 (3) REGULATIONS.—The Comptroller General
9 shall promulgate regulations to carry out this sub-
10 section.

11 (b) ENVIRONMENTAL PROTECTION.—

12 (1) IN GENERAL.—After consultation with In-
13 dian tribes, the Secretary may promulgate regula-
14 tions to carry out this subsection that—

15 (A) ensure that the policies of the National
16 Environmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.), and other laws that further the
18 purposes of that Act (as specified by the regula-
19 tions), are most effectively implemented in con-
20 nection with the expenditure of funds under
21 this Act; and

22 (B) assure the public of undiminished pro-
23 tection of the environment.

24 (2) SUBSTITUTE MEASURES.—Subject to para-
25 graph (3), the Secretary may provide for the release

1 of funds under this Act for eligible activities to grant
2 recipients that assume all of the responsibilities for
3 environmental review, decisionmaking, and related
4 action under the National Environmental Policy Act
5 of 1969 (42 U.S.C. 4321 et seq.), and other laws
6 that further the purposes of that Act (as specified
7 by the regulations promulgated under paragraph
8 (1)), that would apply to the Secretary if the Sec-
9 retary carried out the eligible activities as Federal
10 projects.

11 (3) RELEASE.—

12 (A) IN GENERAL.—The Secretary shall ap-
13 prove the release of funds under paragraph (2)
14 only if, at least 15 days prior to approval, the
15 grant recipient submits to the Secretary a re-
16 quest for release accompanied by a certification
17 that meets the requirements of paragraph (4).

18 (B) APPROVAL.—The approval by the Sec-
19 retary of a certification shall be deemed to sat-
20 isfy the responsibilities of the Secretary under
21 the National Environmental Policy Act of 1969
22 (42 U.S.C. 4321 et seq.) and the laws specified
23 by the regulations promulgated under para-
24 graph (1), to the extent that those responsibil-

1 ities relate to the release of funds for projects
2 described in the certification.

3 (4) CERTIFICATION.—A certification shall—

4 (A) be in a form acceptable to the Sec-
5 retary;

6 (B) be executed by the tribal government;

7 (C) specify that the grant recipient has
8 fully assumed the responsibilities described in
9 paragraph (2); and

10 (D) specify that the tribal officer—

11 (i) assumes the status of a responsible
12 Federal official under the National Envi-
13 ronmental Policy Act of 1969 (42 U.S.C.
14 4321 et seq.) and each law specified by the
15 regulations promulgated under paragraph
16 (1), to the extent that the provisions of
17 that Act or law apply; and

18 (ii) is authorized to consent, and con-
19 sents, on behalf of the grant recipient and
20 on behalf of the tribal officer to accept the
21 jurisdiction of the Federal courts for en-
22 forcement of the responsibilities of the
23 tribal officer as a responsible Federal offi-
24 cial.

1 **SEC. 8. REMEDIES FOR NONCOMPLIANCE.**

2 (a) FAILURE TO COMPLY.—If the Secretary finds, on
3 the record after opportunity for an agency hearing, that
4 a block grant recipient or training and technical assistance
5 grant recipient has failed to comply substantially with any
6 provision of this Act, the Secretary, until satisfied that
7 there is no longer a failure to comply, shall—

8 (1) terminate payments to the grant recipient;

9 (2) reduce payments to the grant recipient by
10 an amount equal to the amount of payments that
11 were not expended in accordance with this Act;

12 (3) limit the availability of payments under this
13 Act to programs, projects, or activities not affected
14 by the failure to comply; or

15 (4) refer the matter to the Attorney General
16 with a recommendation that the Attorney General
17 bring an appropriate civil action.

18 (b) ACTION BY THE ATTORNEY GENERAL.—After a
19 referral by the Secretary under subsection (a)(4), the At-
20 torney General may bring a civil action in United States
21 district court for appropriate relief (including mandatory
22 relief, injunctive relief, and recovery of the amount of the
23 assistance provided under this Act that was not expended
24 in accordance with this Act).

1 **SEC. 9. REPORTING REQUIREMENTS.**

2 (a) ANNUAL REPORT TO CONGRESS.—Not later than
3 180 days after the end of each fiscal year in which assist-
4 ance under this Act is provided, the Secretary shall submit
5 to Congress a report that includes—

6 (1) a description of the progress made in ac-
7 complishing the objectives of this Act;

8 (2) a summary of the use of funds under this
9 Act during the preceding fiscal year; and

10 (3) an evaluation of the status of telephone,
11 Internet, and personal computer penetration rates,
12 by type of technology, among Indian households
13 throughout Indian country on a tribe-by-tribe basis.

14 (b) REPORTS TO SECRETARY.—The Secretary may
15 require grant recipients under this Act to submit reports
16 and other information necessary for the Secretary to pre-
17 pare the report under subsection (a).

18 **SEC. 10. CONSULTATION.**

19 In carrying out this Act, the Secretary shall consult
20 with other Federal agencies administering Federal grant
21 programs.

22 **SEC. 11. HISTORIC PRESERVATION REQUIREMENTS.**

23 A telecommunications project funded under this Act
24 shall comply with the National Historic Preservation Act
25 (16 U.S.C. 470 et seq.).

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated to carry out this Act—

4 (1) \$20,000,000 for fiscal year 2005; and

5 (2) such sums as are necessary for each subse-
6 quent fiscal year.

7 (b) AVAILABILITY.—Funds made available under
8 subsection (a) shall remain available until expended.

○

Senator INOUE. Some of the witnesses scheduled to present testimony to the committee are not able to be with us today, but we have the benefit of the presence of two very knowledgeable gentlemen who have worked extensively in Indian country on these issues, and we look forward to receiving their testimony.

We are most privileged to have with us J.D. Williams, telecommunications subcommittee chair, of the National Congress of American Indians in Washington, DC; and Kade L. Twist, vice president, Native Networking Policy Center in Reston, VA. J.D. Williams and Mr. Twist.

Mr. Williams? There is another person called J.D. Williams, you know that, don't you, in Washington?

Mr. WILLIAMS. Yes; he is famous. I am infamous.

Senator INOUE. He makes a lot of money.

Mr. WILLIAMS. I do not.

STATEMENT OF J.D. WILLIAMS, TELECOMMUNICATIONS SUBCOMMITTEE CHAIR, NATIONAL CONGRESS OF AMERICAN INDIANS.

Mr. WILLIAMS. Vice Chairman Inouye and committee members, I thank you for this opportunity to testify on the Native American Connectivity Act, a measure that seeks to address a range of critical telecommunication issues impacting tribes. President Tex Hall sends his regards to the committee and regrets being unable to join you today to discuss this important matter.

As the chair of the National Congress of American Indians Telecommunications Subcommittee, as well as the general manager of the Cheyenne River Sioux Tribe Telephone Authority, the oldest tribally owned telephone company in the United States that began in 1958, I am pleased with the advances in telecommunication infrastructure and education that this bill proposes. NCAI strongly supports this measure and we look forward to working with the committee as it moves to advance this bill to passage in the 108th Congress.

Not only is a strong telecommunications infrastructure vital to the effective functioning of our economies and governments, it also serves an invaluable tool for education and training of tribal members, a blessing for our infirm or elderly who are now or who will be able to receive medical care through telemedical services and a critical component in efforts to preserve our cultures and languages.

This bill will enable tribes to use its programs to improve access to all these critical tools and more. Examples abound throughout Indian country of tribes who have prioritized the development of a sound telecommunication infrastructure. Those same tribes generally are among the most successful at carrying out diversified development of all kinds within their communities.

It is no question that high telephone penetration rates and easier access to the Internet are hallmarks of healthy economies. Most businesses today see high-speed Internet access, flexible telecommunication technology, and technologically skilled employees as absolute necessities. Some reservations have one or two of these key commodities in place, but most have none.

We must be able to provide these services in order to attract a diverse array of businesses to Indian country and we must have these services if businesses in Indian country are to achieve long-term success.

Education and training of our tribal members are essential ingredients to successful development. We must not only train them to be proficient in information technology-related fields, we must also find ways to provide tribal members with skills for success in all sectors of tribal government and economies. E-training and distance learning are tailor-made for the unique rural needs of our communities. We have needs for skills training and continuing education, and most of us live in these rural communities removed from education centers.

Technology to access teachers and trainers over the Internet is a critical tool to provide our members the opportunity to learn the skills they need to find productive employment. The same technology can also provide us with an avenue to increase dramatically the health and quality of health care for our people. Telemedicine is a fast developing arena of information technology that is particularly suited to meeting the needs of our remote and underserved reservations.

Ailing tribal members often cannot make the long trips to IHS clinics or other health care facilities far from their homes. The price of gas on the Cheyenne River Reservation, I just bought some yesterday, \$2.06; folks from the east and west end of the reservation have up to 90 miles to travel to the only health facility on the reservation and most of those folks just cannot afford the higher price of transportation, so telemedicine is a good, viable alternative for us as things change every day.

Small communities if they were provided with the infrastructure and resources to implement such a program could set up a teleclinic where health professionals could address patients and provide initial examinations over video-conference. These services have proven to be very effective for Indian country where currently available. National Public Radio documented its success in a report of October last year, noting how both doctors and patients find it far more effective than infrequent doctor trips to the reservation or costly and difficult trips from reservation to urban areas. I am happy to see telemedicine as one of the goals of this legislation.

IT is also rapidly becoming indispensable in the area of protecting our sacred rites and retaining our native languages. The Alaska Native Language Center, the Choctaw Nation of Oklahoma, the Cherokee Nation of Oklahoma, Fort Peck Community College and others provide online resources or even online instruction for students in their native languages. After generation of declining use of native languages, a vital tie to our traditional culture, we are bringing together our elders and our youth online to keep our languages alive.

Vital tools for protecting sacred sites are also becoming increasingly reliant on IT. One example is the FCC's tower construction notification system, an all-online tool to give tribes information about proposed construction to cell phone towers to determine if they are a threat to sacred or culturally significant sites. This system not only prevents destruction of our sites, but it also gives the

cell tower industry a simple and efficient way to fulfill 106 of the Historic Preservation Act.

These are only a few examples of the many ways that increased access to resources for development of telecommunications infrastructures such as those proposed in this measure can help our communities in a very tangible manner. S. 2382 proposes to set up two grant programs: block grants for a wide range of telecommunication-related activities; and training and technical assistance grants for employee training and student programs, funded at \$20 million for the first year. Eligible entities for the funding are broad-based as well to ensure that tribes, tribal colleges and other entities can all work together to deliver the benefits of this measure to tribal members.

The status of tribal telecommunications infrastructure varies widely across the Nation. Some tribes include vast areas within their jurisdiction that lack basic telephone service or are struggling to keep the basic service they have. Other tribes are providing their members with high-speed Internet services, wireless phones, and are exploring next-generation telecommunication technologies. The vast majority of tribes fall somewhere in-between and are thinking about how they best make the next step forward, improved connectivity.

There is clearly no panacea for meeting the telecommunication needs of the tribes. Only focused resources with flexibility to meet the unique needs of the individual tribes can begin to address this dial tone and digital divide in Indian country. With 12 different eligible activities plus training, and the flexibility to enable any type of tribal government institution, organization, or its partner to use these funds, tribes will be able to effectively use their block grants to meet the unique needs of their members under this measure.

This bill would allow eligible entities to use funds to increase tribal capacity to exercise regulatory authority by issuing their own telecommunication regulations and codes. Through this governmental function, tribes are not only delineating their expectations of how service should be focused or should be provided on their reservations, but they are also exercising their sovereign right to manage affairs of their own lands.

As you know, the Cheyenne River Telephone Authority is the first tribal communication company. We have found that we are by far the most capable provider on our reservation. We hope that other tribes take advantage of the programs that this bill envisions to create their own companies that exercise an important aspect of sovereignty in the 21st century.

The ability of tribes to self-determine the best course of action for utilizing the funds would be authorized under the legislation, coupled with adequate enacted funding levels, are vital to the success of this bill. Tribes will be eager to access these funds, so funding should be certainly set at the level of \$20 million at a minimum, and all eligible activities should be preserved as this bill moves forward.

Thank you.

[Prepared statement of Mr. Williams appears in appendix.]

Senator INOUE. Thank you very much.

May I call on Mr. Twist, please?

**STATEMENT OF KADE L. TWIST, VICE PRESIDENT, NATIVE
NETWORKING POLICY CENTER**

Mr. TWIST. Vice Chairman Inouye, thank you for inviting me here to testify before the committee about the Native American Connectivity Act.

My name is Kade Twist. I am an enrolled member of the Cherokee Nation and vice president of the Native Networking Policy Center. The Native Networking Policy Center is a nonprofit organization whose mission is to ensure equitable and affordable access to and any culturally appropriate use of telecommunications and information technologies throughout Indian country.

The concepts of the connectivity, access and diversity among public telecommunications systems are essential elements of the 1934 Communications Act and the 1996 Act are still in the year 2004 redlined around most of Indian country. It is an oppressive and offensive picture that raises a number of critical social justice issues. It is a picture that raises serious questions about the public interest priorities of this great Nation. It is also a picture that raises serious questions about the Federal Government's commitment to upholding its trust responsibility for American Indian people in the area of communications.

Therefore, the Native Networking Policy Center applauds your attempt to remedy the gross telecommunications and information technology deficiencies of Indian country through this proposed legislation.

The Native Networking Policy Center contends that the Native American Connectivity Act represents a viable and intelligent solution. The bill's strongest attribute is that it would provide a flexible block grant funding mechanism that emphasizes local community control over how funds are utilized; supports technology planning, market studies and feasibility studies; supports training, technical assistance, capacity-building activities; and supports research and evaluation.

Notably, it is also significant in that it would not, and I emphasize the fact, would not require tribes to compete against State and municipal entities to gain access to the benefits of the federal trust responsibility in the area of telecommunications and information technology. It is also significant that it would make investments in both sides of the technology equation in Indian country, the infrastructure side and the human side.

Providing equipment and infrastructure is not a solution in and of itself for the vast telecommunications and information technology needs of tribes and American Indian communities. Equipment and infrastructure are merely tools. They are only effective when they are applied for in a manner that provides for and advances the social, civic and cultural needs of the respective tribes and Indian communities.

There are already a number of Federal programs that have been helpful in improving the status of telecommunications in Indian country. I would like to emphasize the importance of universal service. Universal service is essential to ensuring the affordability of telecommunications services today and it should be protected and grown in the future. However, universal service is not a silver bullet.

I would also like to emphasize the fact that the National Telecommunications and Information Administration's Technology Opportunity Program, the Department of Education's Community Technology Center Program and the Department of Agriculture's Rural Utilities Service Broadband Technology Grant and Distance Learning and Telemedicine Programs, all of these programs have been beneficial. However, I would like to point out that only a very small minority of tribes have received funding from these programs due to their highly competitive nature and their limited budgets.

I would also like to emphasize the point that these programs do not address one of the most significant barriers to telecom and IT development. That is the lack of local community knowledge and capacity. Their emphasis is on infrastructure, rather than the appropriate balance of both infrastructure and training and technical assistance. While helpful, it is clear that these programs individually and collectively have been insufficient.

So what are the benefits of the Native American Connectivity Act and why is it needed? The first and most important point is the idea and the concept of local control over how funds are utilized. It is crucial for the advancement of tribal sovereignty and the concept of self-determination that tribes control how funds are utilized for the development of telecommunications IT in their respective communities. There is no better steward of the public interest in Indian country than the tribes themselves.

Existing Federal programs place external limits on tribal and American Indian community decisionmaking. The Federal Government rather than tribal governments prescribes the priorities for the use of funds from these programs. The effectiveness of existing programs is therefore structurally limited because they are not designed or administered with the specific needs of tribes and American Indian communities in mind.

The Native American Connectivity Act would enable tribes to better determine their technology destinies. It would promote a higher level of tribal involvement in the conceptualizing of telecommunications and IT development. It would also allow tribes the flexibility they need to develop infrastructure in a more comprehensive manner that best connects tribal entities with tribal communities.

The second point is technology planning, market studies and feasibility studies. Given that only 17 percent of all tribes have technology or telecommunications plans in place, this is an area of crisis that needs to be addressed and addressed specifically. Appropriate and sustainable telecommunications development cannot take place without sufficient planning. Yet, current Federal programs do not, and I emphasize do not, provide support for planning needs.

The Native American Connectivity Act would support planning activities for community-wide planning processes that leverage resources, aggregate demand for services and infrastructure, and promote interagency collaboration, as well as collaboration among other tribes, nonprofits and the private sector.

It would also support planning efforts necessary for establishing tribal telephone companies, Internet service providers, regulatory authorities, and codes; and planning efforts to connect technology

investment strategies to larger tribal economic development strategies aimed at expanding opportunities enabled by new technologies.

The third point is the idea of training, technical assistance and capacity-building. American Indian communities need access to technical assistance resources to build the community knowledge, expertise and capacities that will enable them to utilize these technologies effectively. A system of training and technical assistance intermediaries is needed to provide support that is specifically designed for the telecom and IT needs of American Indian communities. Unfortunately at this time, no such system of training and technical assistance exists. No current federal program supports this type of activity.

The Native American Connectivity Act would support the development of a system of training and technical assistance intermediaries for telecommunications and information technology. It would enable tribes and Indian communities to access an exceptional group of institutions with extensive capacity, stability and credibility in their communities. It would assist tribes in their efforts to establish telephone companies, Internet service providers, regulatory authorities, as well as develop and maintain infrastructure.

It would also promote intertribal collaboration and peer-to-peer mentoring for addressing some of the more complex challenges such as technology planning, technology selection, network design, network administration, and selecting content applications that increase the relevancy of technology among communities.

The fourth point is research and evaluation. Existing Federal programs simply do not provide resources for research and evaluation. As a result, there is a lack of accurate data that prevents tribal leaders from adequately measuring the severity of their telecommunications and information technology deficiencies, and thus limits their ability to make decisions that will effectively reverse these deficiencies.

Having access to quality data is crucial for future telecommunications development. Making such data available dramatically increases the potential for attracting private investment and forging partnerships with private enterprise. Quality data also enables tribal communities to map their telecommunications assets and aggregate telecommunications service demand, which are critical processes to providing the private sector with a good business case for future investment.

There also needs to be more research and analysis of technology development processes such as tribal collaboration, community planning, demand aggregation, attaining rights of ways, establishing tribal telecommunications companies, and setting up telecommunications regulatory bodies. Best practices for these processes need to be identified and analyzed as a means of promoting the most effective, efficient and affordable means for deploying new technology infrastructure.

There is also a tremendous need for resources for tribes to perform market studies and feasibility studies and related research for developing telephone companies, because again tribes are the best stewards of their public interest, and oftentimes tribes do provide

the best communication services to their people because they do know how to best meet their needs.

My final point is an emphasis on no competition against State and municipal entities. Tribes in American Indian communities should not have to compete against State and municipal entities to gain access to the benefits of the Federal trust responsibility in the area of telecommunications and information technology. I cannot emphasize this point enough. Currently, tribes and American Indian communities have to compete against thousands and thousands of applicants for funding for the Technology Opportunities Program, the CTC Center Program, the Broadband Technology Grant and Distance Learning and Telemedicine Programs.

Due to the highly competitive nature of these programs and their overly complicated and expensive application requirements, for instance, the broadband technology grant, tribes typically have to pay between \$50,000 to \$200,000 just to apply for this grant, for the expertise and pre-development planning that goes into that application process. It is incredibly expensive and prevents 99 percent of the tribes from even being able to apply or think about applying for that grant. These application requirements eliminate these funding opportunities. So for most tribes, they may as well not exist.

The Native American Connectivity Act would remedy much of this problem. It would still award grants on a competitive basis, but competition would be among tribes on a much more appropriate playing field. In addition, the programmatic priorities by which grants are awarded would be more specific and more relative to the actual needs of tribes and American Indian communities.

In conclusion, I urge the committee to take the necessary steps to ensure that the Native American Connectivity Act is enacted. The Native American Connectivity Act is unique in that it provides assistance for both telecommunications development and knowledge and capacity-building. Indian Country stands to benefit most from the investment in equipment and infrastructure that is matched with an investment in its people.

Thank you very much.

[Prepared statement of Mr. Twist appears in appendix.]

Senator INOUE. Thank you very much, Mr. Twist.

We did some research and we note that the President has not requested appropriations for the Technology Opportunities Program or the Community Technology Center or the Agricultural Technology Assistance Program. In making this decision, I do not know what happened, but he just cited national statistics. But if he had cited housing statistics in Indian country, he would have found that these programs are necessary.

Recently, Governor Ridge of the Homeland Security Department announced that he has established within the United States in all 50 States and territories a global communications system in which officials in different jurisdictions can communicate with each other, and a national warning can be issued from one command to all jurisdictions. Is there any infrastructure in Indian country that can participate in this national global system?

Mr. TWIST. Let me defer to J.D. first.

Mr. WILLIAMS. There are certain areas on the reservation that have excellent telecommunication infrastructure, including broadband capability which the Homeland Security plan will utilize that. But a majority of those, as you have cited earlier, we are talking about the problem of connectivity, dial tone even existing. So the forgotten American or the forgotten lands still remain the same in those areas. When we hear discussion about the Homeland Security, there is the big assumption that we are 98 percent or 95 percent penetration with adequate broadband telecommunication infrastructure throughout America. That is just not true.

We from NCAI and Indian tribes are very concerned about being left out due to the first responder requirements and needs on the Indian lands.

Senator INOUE. We know that many of the reservations in Indian country are located along our international borders. Do you have any statistics on type of infrastructures now available in Indian Country that I can share with the Homeland Security people and tell them we have to do something about this?

Mr. TWIST. I think at this point one of the major problems that we are facing is that we do not have a comprehensive assessment of infrastructure on a tribe-by-tribe basis. There are regional assessments that have been performed and individual tribes that do have the resources, have performed those assessments. The Navajo Nation for example, has performed a reservation-wide assessment of its infrastructure.

But I think it would be more advantageous for you to perhaps invite maybe the chief information officers of strategically positioned tribes like the Tohono O'Odham Nation that has a 78-mile international boundary that runs across their nation. I know for a fact, even though they do have a tribally owned telephone company in place, they do not have the capacity at all to manage a crisis situation. Every day, drugs and humans are illegally smuggled across that border. Who knows what else could be smuggled across that border, and they do not have the capacity to defend against that.

Before this hearing, I talked with Ben Standifer who is the chief information officer of the Tohono O'Odham Nation. He is almost pulling what little hair he has left on his head out because of the frustrations and just the lack of resources to build that kind of infrastructure capacity that they need.

They literally just are at their wits end. It is a crisis at the Tohono Nation.

Mr. WILLIAMS. The Office of Technology Study done in 1995 cited 30 to 50 percent penetration rate, and that has been upgraded by a study done within the FCC to a 67-percent level. I still doubt that that percentage has even been raised that high. We, as the oldest tribally owned telephone company, our penetration rate is right at about 80 percent and we have been in the business a long time. When you have 80 percent unemployment, the poorest county in South Dakota and seventh poorest in the United States, even when that infrastructure runs by the home or is in that home, they cannot afford technology. It is just not allowed because of their limited budget.

So therefore, when you do use that number 67 percent that is most recent and we have seen all the studies by the FCC, it is not the same as the 95 to 98 percent that is across America. There is a great difference of just dial tone being in those homes, if that exists, versus high-speed Internet and the capabilities of a home.

I find it very interesting living in this area, and President Bush touts No Child Left Behind, when we do not have the infrastructure or the capability to afford that infrastructure, there are a lot of folks, including the adults, that are left behind because we do not have access as other folks do in the United States.

Senator INOUE. Now, both of you have referred to tele-health and telemedicine. I know that in Alaska, there are telemedicine projects and that they are currently available out in Native villages. Do you know where there are telemedicine or tele-health capacities in Indian country in the lower 48 States?

Mr. WILLIAMS. Within our own reservation, we have telemedicine offered at an IHS facility, as well as our community health program that is a public organization, and service comes out of a place called Med Center One in Bismarck, ND. But that all comes from the fact that we are a very established telephone company with fiber-optic capability that allows that speed of video. We also have fiber redundancy, but that is from the high end of the spectrum of tribal telephone company.

Kade, do you have any?

Mr. TWIST. Well, one interesting example, I think, is the rural Arizona Telemedicine Network. It was established in the late 1990's. They invited tribal participation, but in a very select manner, meaning they did not make it public information necessarily. They did not advertise. They did not approach tribal leaders and invite them personally. They just sort of interoffice memos that eventually leaked out to the public or however they disseminate their information there.

Navajo did participate in that and so did Hopi, probably because they are very close to Flagstaff where the university there, Northern Arizona State University or NSU was one of the universities that participated in this network. So it seemed like they cherry-picked. The tribes that were located near the universities that participated in the network were tribes that were invited to participate, and eventually did.

However, when tribes like the Tohono O'odham Nation attempted to participate in the network, they were prevented from doing so. For whatever reasons, they were not provided with. But still, the status of telemedicine in Indian country in Arizona I know is very insufficient. I would invite you to again talk with the CIO Ben Standifer about that at Tohono O'odham because he does have a lot of interesting examples of how they have been excluded from those types of State programs.

Another State program that actually has been very successful is in Oklahoma, through the OneNet. But Oklahoma has also been ahead in a lot of their technology developments because you have tribes located very close to major cities and it is much more feasible economically for them to develop that kind of infrastructure.

Still, if you look in rural Washington, rural Northern California and Oregon, still telemedicine is an application that is spotty at best.

Senator INOUE. Both of you have mentioned training. Are we providing adequate training or funds to set up training programs in Indian country?

Mr. WILLIAMS. From my perspective of operating an ongoing telephone company, and I have been there since 1982, we have seen probably four technology changes and it is happening every day as technology races. So there is an extreme need to keep employees up to par with that technology change. We probably spend, with 50 employees, and they are not all technicians, but probably around \$40,000 a year in our training, constant training. But we have a funding source through an operating company to do that. We receive a lot of calls from around the tribe and inquiries and find a very small amount of folks, in particular young people that come from vo-tech or college training or on-the-job training that are located in these tribes as MIS directors, computer specialists. But those are only a couple, seemingly, in each tribe.

I just do not think it is adequate because then the whole reservation seems to borrow from those few talented people. It really is all self-funded, as I see it internally within the tribe. Perhaps you will see more of those people come from the tribal college entity if they are lucky enough to have a tribal college on their reservation.

Mr. TWIST. I would have to say that training, again, is very, very spotty. It is best served in communities that have tribal colleges. I think the tribal colleges and universities through AHEC has supported a national initiative to provide technology training. But the vast majority of tribes do not have tribal colleges and the vast majority of tribes do not have any type of system of training in place.

Tribes that have been awarded CTC grants, if they have chosen to establish training programs through those centers established by those grants, the sustainability of those programs has been problematic. But this is an issue ironically where you need the infrastructure in place to have the training in place, because one of the difficulties of sustaining a training program is having a critical mass of students. In rural and isolated communities, it is hard to develop that critical mass to make it feasible to provide training.

So with distance learning, you can get the critical mass and aggregate it nationally so that with one instructor you can provide those training sessions, those training classes on a national basis from one regional site. That is something that is beginning to happen in other areas. A big development recently, this year in particular, has been in the area of media, of film and video training using tribal TANF dollars. The Owens Valley, a career development corporation in California, has been using distance learning applications to provide film and video training which also incorporates a great deal of IT training. You have to know how to use a computer to use the final cut pro editing tools to edit a film. So they do a lot of remedial computer training and software training. They provide it through that distance learning capacity.

Also the school, DQ University out of Davis, a tribal school, tribal college, provides distance learning classes through the Intertribal Entertainment Program that the Southern California Indian Cen-

ter has in Los Angeles. So the kids are able to get college credit and get training and also produce films. That is really the side that we need to look at as well, and that perhaps has not been addressed enough is the idea of content and applications that promote the development of content, because these are the things that make these technologies most relevant.

It also underscores a strategy that I think is essential to effective training, and that is outcome-based training strategies that are focused on content being one of the outcomes, content that reflects our cultures, our identities, our goals as communities, things of that nature.

But these types of exciting training programs are very far and few in between, and there is an effort out there. There are people out there in Native communities that know what to do, know how to do it, and they are searching for the resources to make it happen. There are models that exist. It is just a matter of how do we get the resources and build out this sort of national network for this training and technical assistance.

Senator INOUE. So at this stage in your development, without proper training, without proper equipment, it makes very little difference if we open our doors and say come in, you are not able to come in. Is that about the proper picture?

Mr. TWIST. I would say precisely. Without the proper training and without the appropriate focus on outcomes and content, you will not have the relevancy of these technologies, and without that relevancy you will not have community demand, and without community demand you will not have economic feasibility for building out infrastructure. You will not have a market case.

So the training side is very, very important to the economic feasibility of our infrastructure development and sustaining that infrastructure development.

Senator INOUE. Can you work with this committee to assure that this bill properly addresses the need for training and technical assistance?

Mr. TWIST. I would be more than happy to. I think that all we have to do is look toward other sectors of tribal development, for instance housing. NAHASDA created a system of training and technical assistance intermediaries. The National American Indian Housing Council is a best-case example of how such an intermediary functions on a national level. My thinking and the thinking of the Native Networking Policy Center is that that type of intermediary is needed for telecommunications and IT development as a way of pooling and leveraging resources, leveraging planning, coordinating all of these types of activities on a national scale and on a regional scale. It also involves greater tribal commitment and tribal participation as well.

Mr. WILLIAMS. I also think from the National Congress of American Indians, that our organization has and is bringing together the technology experts within Indian country, and also a sense of educating Indian leaders. With the growing problems on our reservations as population grows, Federal dollars are in a decline, tribal leaders, the plate that they have to deal with is so immense and growing that technology usually is a last issue to even be talked about. I think the National Congress of American Indians would

very much like to be a part of that plan and be a very focal critical instrument that you could rely upon.

Senator INOUE. Why don't you two get together with committee staff and add your thoughts to this process? We will draft the bill accordingly. Okay?

Mr. WILLIAMS. Great.

Mr. TWIST. Thank you.

Senator INOUE. This hearing stands in recess.

Thank you very much.

[Whereupon, at 11:10 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF ERNEST L. STENSGAR PRESIDENT, AFFILIATED TRIBES OF NORTHWEST INDIANS

Mr. Chairman and members of the committee, I appreciate the opportunity to submit written testimony on behalf of the Affiliated Tribes of Northwest Indians in support of the Native American Connectivity Act. I would like to address the committee regarding the importance of S. 2382, the Native American Connectivity Act. This act is important to all people concerned with our Nation's security.

Tribal leaders have long been concerned with developing reservation infrastructure to meet the unique needs of their reservations. In this era of Self-Determination, tribes have stepped forward to overcome the many challenges we face in order to control our own destinies. In the wake of 9-11, it has become glaringly evident that we, as tribal leaders, must increase our roles in developing our telecommunications systems in order to strengthen the security and safety of our own homelands and that of our Nation. As stewards of significant land bases, including hundreds of miles of coastal fronts, isolated areas, and international borders, it is our duty as well to protect any and all infrastructure that crosses through tribal lands.

While telecommunications systems nationwide are undergoing rapid evolution, the availability of advanced telecommunications systems beyond plain old telephone service [POTS] is largely non-existent in reservation communities. Most tribes are at the mercy of private carriers that lack the incentive to invest in reservation communities, giving them secondary attention at best. The overall lack of carrier investment in telecommunications infrastructure in Indian country not only compromises nationwide homeland security efforts, but also serves to condemn reservations to insufficient public safety, economic stagnation, and poor socio-economic conditions.

Many tribes are engaged in long-range planning efforts in order to effectively harness and manage telecommunication assets for maximum public benefit in alignment with their own needs. As major stakeholders, tribes hold a deep interest in developing telecommunications systems that are adequate enough to support the current and future needs of: Tribal Governments, public safety personnel [fire/medical/police], medical facilities, educational institutes, new development, and reservation communities. In addition, telecommunications services must be made affordable and universally available.

Although there are many Federal programs designed to assist in these areas, the gaps that exist often hinder tribes from fully participating in these programs. For example, the Department of Agriculture's Rural Utility Service [RUS] provides financing for telecommunications infrastructure. However, tribes often lack the up-front capital necessary to cover expenses incurred for pre-operational activities. This includes engineering, legal research, and staffing costs. In addition to the financial hurdles, the lack of training and technical assistance also creates barriers in utilizing these programs.

Another example is the Enhanced Lifeline and Linkup program. Under current Federal Communications Commission [FCC] rules, telecommunications carriers are required to publicize the availability of these programs in a manner that will reach

those likely to qualify. However, carrier efforts to market these programs are minimal, and many reservation consumers remain unaware that the programs exist. Tribes have often had to rely on their own resources to provide adequate outreach to their constituents.

Until recently, tribes in the Northwest used a regionalized approach to market these programs. In this light, the ATNI Economic Development Committee developed the Tribal Telephone Outreach program. Two tribal outreach advocates were hired to provide training to tribes on telecommunications and consumer rights issues. This included training on the Lifeline and Linkup Programs for Tribal Lands. This program ended in February 2004.

The Native American Connectivity Act is a positive step forward for Indian country. This measure is in alignment with the principles of tribal self-governance, and collaboration on homeland security, along with the Telecommunications Act. The passage of this measure will assist tribes in conducting their needs assessments, to inventory existing and projected facilities, and identify shortfalls. It will allow tribes to ensure that reservation residents, businesses, and tribal entities obtain the telecommunications services and infrastructure necessary to thrive in the information age. It will enable them to provide adequate public safety, and to improve the health, welfare, and socio-economic conditions of their reservations. It offers unprecedented potential for cultural and language revival. And finally, it will allow tribes to strengthen the security and safety of their own homelands, leaving no gaps in our Nation's security. It is in this spirit, we urge you to pass the Native American Connectivity Act.

PREPARED STATEMENT OF KADE L. TWIST, VICE PRESIDENT, NATIVE NETWORKING
POLICY CENTER

Chairman Campbell, Vice Chairman Inouye, and distinguished members of the committee, thank you for inviting me to testify before the Committee on Indian Affairs about the Native American Connectivity Act. It is an honor to be herewith you today. My name is Kade L. Twist. I am an enrolled member of the Cherokee Nation and vice president of the Native Networking Policy Center. The Native Networking Policy Center [NNPC] is a non-profit organization whose mission is to ensure equitable and affordable access to, and the culturally appropriate use of, telecommunications and information technology throughout Indian country.

Unfortunately, far too many American Indians lack access to basic telephone service—let alone advanced telecommunications services—and information technology. And far too many tribes and American Indian communities lack the knowledge and capacity they need to utilize these technologies in a manner that advances their respective social, civic, and cultural needs.

Therefore, NNPC applauds Senator Inouye's and the committee's attempt to remedy these appalling deficiencies through the proposed Native American Connectivity Act. It is clear that previous attempts to promote market-driven solutions to these deficiencies have been painfully inadequate in providing a timely remedy and have entirely failed to address one of the most significant barriers to telecommunications and information technology development: The lack of local community knowledge and capacity. It is also clear that existing Federal programs that provide funding assistance for the development of telecommunications and information technology have been insufficient in meeting the diverse and unique needs of tribes and American Indian communities, including essential community knowledge and capacity issues.

The NNPC contends that the Native American Connectivity Act represents a viable and intelligent solution to the telecommunications and information technology deficiencies among tribes and American Indian communities. The act's strongest attribute is that it provides a flexible block grant funding mechanism that:

- (1) Emphasizes local community control over how funds are utilized, including tribal decisionmaking and community-driven problem solving;
- (2) Supports technology planning, market studies and feasibility studies;
- (3) Supports training, technical assistance, and capacity building activities;
- (4) Supports research and evaluation;

Furthermore, the Native American Connectivity Act is significant in that it doesn't require that tribes compete against State and municipal entities to gain access to the benefits of the Federal trust responsibility in the area of telecommunications and information technology.

The future of American Indian self-determination is largely dependent upon the ability of tribes and American Indian communities to develop and utilize telecommunications technologies as tools for enhancing nation building, civic engage-

ment, economic development, education, healthcare, language and cultural preservation, and media. Therefore, NNPC contends that the Native American Connectivity Act will play an important role in not only improving the status of telecommunications in Indian country, but also improving upon the future status of American Indian self-determination.

Background: Severity of need

Infrastructure

There is a communications crisis in Indian country that is undermining the potential for expanding the human, economic and civic capacities of Indian Nations and tribal members. More so than any other racial or ethnic group in rural America, American Indians lack access to telecommunications and information technology infrastructure and services.

The insufficient and unacceptable state of telecommunications and information technology in Indian country is well documented in the written and verbal testimonies provided by tribal leaders and stakeholders in Indian country during the May 22, 2003 hearing. I urge you to revisit the public record for more robust background information on the severity of the telecommunications and information technology infrastructure deficiencies.

I also urge you to consult three important reports that provide an appropriate context from which to evaluate the current communications crisis in Indian country. This crisis didn't emerge overnight. And these reports provide a useful history of how and why this is the case. The three reports are: *Telecommunications Technology and Native Americans: Opportunities and Challenges*, U.S. Congress, Office of Technology Assessment, *Telecommunications Technology and Native Americans—Opportunities and Challenges*, OTA-ITC-621, August 1995; U.S. Department of Commerce, Economic Development Agency, *Assessment of Technology Infrastructure in Native Communities*, October 1999; Benton Foundation, *Native Networking: Telecommunications and Information Technology in Indian country*, April 1999.

Because so much thoughtful information is already readily available, and the focus of much public discourse, I will only provide here a brief summary-or, reminder-of these infrastructure-related deficiencies:

- Household telephone penetration rates for all of Indian country are only 67.9 percent; however, for some tribes, such as the Navajo Nation, it is only 39 percent.¹
- Household Internet penetration rates for all of Indian country are only 10 percent.²
- Household personal computer penetration rates for all of Indian country are only 15 percent.³

Instead of rehashing what is already on the public record, I would like to add one important issue that is often overlooked in public discourse pertaining to the lack of telecommunications and information technology infrastructure: SOCIAL JUSTICE.

The concepts of equity, access and diversity among public communications systems—essential elements of the 1934 Communications Act and 1996 Act—are still, in the year 2004, redlined around most of Indian country. It's an oppressive and offensive picture that raises a number of critical social justice issues. It's a picture that raises serious questions about the public interest priorities of this great nation. It's a picture that raises serious questions about the Federal Government's commitment to upholding its trust responsibility for American Indian people.

Without household telephone service. American Indians are dying in their homes because they don't have access to 911 services; they are unable to attain employment because they don't have a phone; they are unable to communicate effectively with their children's teachers or elected leaders.

Without household Internet access American Indians are unable to reap the benefits of an e-government democracy; they are unable to contribute to the public sphere; they are unable to contribute to the diversity and richness of mainstream America through the sharing of their stories, experiences, languages and cultures.

¹2000 Census, as compiled by the FCC, 2003.

²U.S. Department of Commerce, Economic Development Agency, *Assessment of Technology Infrastructure in Native Communities*, October 1999.

³Ibid.

Knowledge and Capacity

Providing equipment and infrastructure is not a solution, in and of itself, for the vast telecommunications and information technology needs of tribes and American Indian communities. **Equipment and infrastructure are merely tools. They are only effective when they are applied in a manner that provides for—and advances—the social, civic and cultural needs of respective tribes and American Indian communities.**

Even if every mile of Indian country were wired the vast majority of tribes would not have the knowledge, expertise and organizational capacity to effectively utilize, manage and sustain their infrastructure. For instance, telecommunications systems are expensive to sustain and require a large number of staff with wide array of skill sets to keep them up and running. It requires a great deal of experience, expertise, creativity, community education and community organizing to utilize telecommunications systems in a manner that compliments the cultural will of tribal people while meeting their social and civic needs.

Therefore, the needs for building organizational capacity and planning assistance should be viewed all stakeholders as a top priority. Currently, the majority of Indian country does not have the organizational capacity or planning resources to expeditiously and efficiently build-out needed infrastructure. Likewise, the majority do not have the knowledge and capacity to manage and utilize infrastructure in a manner that maximizes its full potential. Perhaps the best example of this need is the grim statistic that only 17 percent of tribes have technology infrastructure plans in place, and only 17 percent of tribes have telecommunications plans in place.⁴

Addressing the organizational capacity building and planning assistance needs of Indian country is not only essential to building out infrastructure, it is also essential to sustaining technology investments.

Stakeholders should be mindful of the fact that Indians have just begun the processes of making telecommunications; and information technology fit their respective cultural and social wills. Therefore, Indian Nations have an intense need for planning, community organizing, training, technical assistance, capacity building assistance and the recruitment of talent with a diversity of skill-sets. Indian Nations must develop their organizational infrastructures, regulatory codes and regulatory bodies to ensure the appropriate development and sustainability of telecommunications endeavors on tribal lands, as well as, ensuring the consumer rights of their respective tribal members.

Benefits of the Native American Connectivity Act and Why it is Needed

Local control over how funds are utilized

It is crucial for the advancement of self determination that tribes control how funds are utilized for the development of telecommunications and information technology within their respective communities.

Existing Federal programs such as the National Telecommunications and Information Administration's Technology Opportunities Program [TOP] and the U.S. Department of Education's Community Technology Center [CTC] Program place external limits on tribal and American Indian community decisionmaking. The Federal Government, rather than tribal governments, prescribes the priorities for the use of funds from these programs. Such prescribed priorities tend to emphasize experimental and theoretical approaches to technology development, which is beyond the scope of the majority of tribes' technology development priorities.

In sum, the effectiveness of these programs for Indian country is structurally limited because they are not designed or administered with the specific needs of tribes and American Indian communities in mind.

Whereas, the Native American Connectivity Act would utilize a block grant program to disperse funds to tribes to be used by tribes as they see fit. **The Native American Connectivity Act would promote a higher level of tribal involvement in the conceptualizing of telecommunications and information technology development.** In addition, the act would promote a higher level of inter-agency collaboration and the leveraging of a more diverse set of interagency resources. It would enable tribes to build upon existing infrastructure across inter-agency network platforms in a manner that is more consistent with tribal and American Indian community development priorities. And consequently, it would allow tribes the flexibility they need to develop infrastructure in a more comprehensive manner that better connects tribal entities with tribal communities.

⁴U.S. Department of Commerce, Economic Development Agency, Assessment of Technology Infrastructure in Native Communities, October 1999.

Technology planning, market studies and feasibility studies

Given that only 17 percent of tribes have technology or telecommunications plans in place this is an area of crisis that needs to be addressed specifically.

Appropriate and sustainable telecommunications development cannot take place without sufficient planning. And the planning needs of Indian country are far more significant and complex than simply developing a plan for a wireless network, or a community technology center. Tribes and American Indian communities need resources for much larger, community-wide planning processes that leverage resources, aggregate demand for services and infrastructure, and promote interagency collaboration, as well as, collaboration among other tribes, non-profits and the private sector. Tribes also need resources to perform market studies and feasibility studies for developing telephone companies and connecting technology investment strategies to larger tribal economic development strategies aimed at expanding economic opportunities enabled by new technologies.

It is essential for tribal telecommunications and information technology development efforts to be linked with existing education, healthcare and economic development efforts. Many tribes have been unable to develop such linkages, and as a result, they are duplicating efforts, failing to leverage resources and failing develop fully integrated systems. Unfortunately, existing Federal programs simply do not support sufficient telecommunications and information technology planning. As a result, potential efficiencies and market development opportunities have been unrealized.

The Native American Connectivity Act, through its block grant program, would support a diversity of necessary planning activities. The Native American Connectivity Act would play a significant role in providing tribes and American Indian communities with the resources they need to not only develop telecommunications and information technology more efficiently, but also to utilize these technologies in a manner that promotes their social, economic, civic and cultural needs.

Training, technical assistance and capacity building

I would like to reiterate the fact that providing equipment and infrastructure is not a solution, in and of itself, for the vast telecommunications and information technology needs of tribes and American Indian communities. Equipment and infrastructure are merely tools. They are only effective when they are applied in a manner that provides for—and advances—the social, civic, and cultural needs of respective tribes and American Indian communities.

With this in mind, **tribes and American Indian communities need access to training and technical assistance resources to build the community knowledge, expertise and capacity that will enable them to utilize these technologies effectively.** A system of training and technical assistance intermediaries is needed to provide support that is specifically designed for the telecommunications and information technology needs of tribes and American Indian communities.

Unfortunately, no such system for training and technical assistance exists for telecommunications and information technology. Instead, tribal and American Indian technology leaders end up flying around the country to attend expensive conferences and workshops that are limited to a few hours, or maybe 1 day, as a means of gaining access to technical assistance and training opportunities. Unfortunately, these brief learning opportunities are designed to address the general needs of a broad audience, rather than the specific needs of a specific tribe or American Indian community. This leaves the majority of tribal and American Indian technology leaders scratching their heads wondering where and how they can access the type of specific training assistance they need.

As a result, tribes and American Indian communities rely on expensive consultants because it is the easiest and most timely means of attaining expertise. The reliance upon outside consultants provide a temporary fix for a particular need, however, this practice prevents tribes and American Indian communities from building their internal expertise and capacities and reaping the long-term benefits from doing so. It can also be problematic in the sense that consultants come and go from project to project and do not necessarily advance the long-term best interests of tribes and American Indian communities.

The Native American Housing Assistance and Self Determination Act (NAHASDA) established a system of training and technical assistance intermediaries as a means of building the capacity of tribal housing authorities. This system of training and technical assistance intermediaries has proven to be very beneficial in helping tribal housing authorities navigate the complexities of housing development and property management activities more efficiently and effectively. Unfortunately, no such system of training and technical assistance intermediaries exist

for tribes and American Indian communities in the area of telecommunications and information technology—sectors that are far more complicated and expensive than housing.

The Native American Connectivity Act would support the development of a system of training and technical assistance intermediaries for telecommunications and information technology. The Native American Connectivity Act would enable tribes and American Indian communities to access an exceptional group of institutions with extensive capacity, stability and credibility in their communities. It would promote intertribal collaboration and peer-to-peer mentoring for addressing complex challenges such as technology planning, technology selection, network design, network administration and selecting content applications that increase the relevancy of technology among communities. It would promote strategic development, pushing participant tribes and American Indian communities to think critically about their markets and organizational priorities, gauge their impact and evaluate alternatives. And most importantly, it would help tribes and American Indian communities build the knowledge, expertise and capacity they need to utilize technologies effectively.

Research and evaluation

There is a tremendous need for a more comprehensive assessment of existing communications technology infrastructure and services subscribed to in Indian country. Currently, there is a lack of accurate data and appropriately contextualized data for telecommunications infrastructure, available services and services subscribed to on a reservation-by-reservation basis. Data that does exist is either outdated, lacks integrity due to small sample sizes and inappropriate collection methods, or has not been made available on a reservation-by-reservation basis.

The lack of quality data prevents tribal leaders from adequately measuring the severity of their telecommunications and information technology deficiencies, and thus, limits their ability to make decisions that will effectively reverse these deficiencies. The lack of data also severely limits the effectiveness in which tribal leaders are able to participate in an already limiting Federal decisionmaking process.

Having access to quality data is also crucial for future telecommunications development. Making such data available dramatically increases the potential for attracting private investment and forging partnerships with private enterprise. Quality data enable tribal communities to map their telecommunications assets and aggregate telecommunications service demand, which are critical processes to providing the private sector with a good business case for future investment.

There also needs to be more research and analysis of communications technology development processes such as tribal collaboration, community planning, demand aggregation, attaining right-of-ways, establishing tribal telecommunications companies, setting up telecommunications regulatory bodies and codes, etc. Best practices for these processes need to be identified and analyzed as a means of promoting the most effective, efficient and affordable means for deploying new technology infrastructure. Best practice models enable tribal leaders to develop successful strategies for future technology development efforts. Furthermore, best practice models can be used to inform the development of Federal policies.

The Native American Connectivity Act would support a wide variety, of research and evaluation activities that will enable tribes and American Indian communities to measuring the severity of their telecommunications and information technology deficiencies; identify the most appropriate means to remedy deficiencies; and evaluate the progress of telecommunications and information technology development efforts.

No competition against state and municipal entities

Tribes and American Indian communities should not have to compete against State and municipal entities to gain access to the benefits of the Federal trust responsibility in the area of telecommunications and information technology.

Currently, tribes and American Indian communities have to compete against thousands of applicants for funding for the National Telecommunications and Information Administration's Technology Opportunities Program, the U.S. Department of Education's Community Technology Center [CTC] Program and the Department of Agriculture's Rural Utilities Service Broadband Technology Grant and Distance Learning and Telemedicine and Programs. Due to the highly competitive nature of these programs and their overly complicated and expensive application requirements the vast majority of tribes and American Indian communities miss out on these funding opportunities.

The Native American Connectivity Act would remedy much of this problem. It would still award grants on a competitive basis, but competition would be among tribes on a much more even playing field. Furthermore, the evaluators of grant proposals would be comprised of American Indian leaders who have a better understanding of the realities in which tribal governments and American Indian communities operate. Not only would tribes and American Indian communities stand a better chance of being awarded a grant, since they wouldn't be competing against thousands of applicants, their applications would also be judged more fairly and less discriminatorily because application evaluators would better understand the complexity and severity of the needs being addressed. In addition, the programmatic priorities by which grants are awarded would be more specific and relative to the actual needs of tribes and American Indian communities.

Moving the Native telecommunications agenda forward is critical, since these technologies enable tribes to jump over some of the biggest hurdles in developing economic and human potential. Therefore, I urge the committee to take the necessary steps to ensure that the Native American Connectivity Act is enacted. The Native American Connectivity Act is unique in that it provides assistance for both telecommunications development and knowledge and capacity building. Indian Country stands to benefit most from an investment in equipment and infrastructure that is matched with an investment in its people. Thank you for providing me the opportunity to testify.

PREPARED STATEMENT OF J.D. WILLIAMS, NATIONAL CONGRESS OF AMERICAN
INDIANS TELECOMMUNICATIONS SUBCOMMITTEE CHAIR

Chairman Campbell, Vice Chairman Inouye, and committee members, I thank you for this opportunity to testify on the Native American Connectivity Act, a measure that seeks to address a range of critical telecommunications issues impacting tribes. President Tex Hall sends his regards to the Committee, and regrets being unable to join you today to discuss this important matter. As the chair of the NCAI telecommunication subcommittee, as well as the general manager of the Cheyenne River Sioux Tribe Telephone Authority, I am pleased with the advances in telecommunications infrastructure and education that this bill proposes. NCAI strongly supports this measure, and we look forward to working with the Committee as it moves to advance this bill to passage in the 108th Congress.

Not only is a strong telecommunications infrastructure vital to the effective functioning of our economies and governments, but it also serves as an invaluable tool for education and training of tribal members, a blessing for our infirm or elderly who are now or will be able to receive medical care through telemedical services, and a critical component in efforts to preserve our cultures and languages. This bill will enable tribes to use its programs to improve access to all of these critical tools and more.

Examples abound throughout Indian country of tribes who have prioritized the development of a sound telecommunications infrastructure. Those same tribes generally are among the most successful in carrying out diversified development of all kinds within their communities. It is no question that high telephone penetration rates and easier access to the internet are hallmarks of healthy economies. Most businesses today see high-speed internet access, flexible telecommunications technology, and technologically skilled employees as absolute necessities. Some reservations have one or two of these key commodities in place, but most have none. We must be able to provide these services in order to attract a diverse array of businesses to Indian country, and we must have these services if businesses in Indian country are to achieve long term success.

The education and training of our tribal members are essential ingredients to successful development. We must not only train them to be proficient in information technology related fields, we must also find ways to provide tribal members with skills for success in all sectors of tribal government and economies. E-training and distance learning are tailor-made for the unique needs of our communities. We have need for skills training and continued education, and most of us live in rural communities removed from education centers. Technology to access teachers and trainers over the Internet is a critical tool to provide our members the opportunity to learn the skills they need to find productive employment.

The same technology can also provide us with an avenue to increase dramatically the health and quality of health care for our people. Telemedicine is a fast-developing arena of information technology that is particularly suited to meeting the needs of our remote and underserved reservations. Ailing tribal members often cannot make the long trips to IHS clinics or other healthcare facilities far from their homes.

Small communities, if they were provided with the infrastructure and resources to implement such a program, could set up a “teleclinic” where health professionals could address patients and provide initial examinations over video conference. These services have proven to be very effective for Indian country where currently available. National Public Radio documented its success in a report in October of last year, noting how both doctors and patients find it far more effective than infrequent doctor trips to the reservation or costly and difficult trips from reservation to urban areas. I am happy to see telemedicine as one of the goals of this legislation.

IT is also rapidly becoming indispensable in the arena of protecting our sacred sites and retaining our native languages. The Alaska Native Language Center, the Choctaw Nation of Oklahoma, the Cherokee Nation of Oklahoma, Ft. Peck Community Colleges, and others provide online resources or even online instruction for students in their native languages. After generations of declining use of native languages—a vital tie to our traditional culture—we are bringing together our elders and our youth on-line to keep our languages alive. Vital tools for protecting sacred sites are also becoming increasingly reliant on IT. One example is the FCC’s Tower Construction Notification System, an all-online tool to give tribes information about proposed construction of cell phone towers to determine if they are a threat to sacred or culturally significant sites. This system not only prevents destruction of our sites, but also gives the cell tower industry a simple and efficient way to fulfill section 106 of the Historic Preservation Act.

These are only a few examples of the many ways that increased access to resources for development of telecommunications infrastructure such as those proposed in this measure can help our communities in a very tangible manner.

S. 2382 proposes to set up two grant programs: Block grants for a wide-range of telecommunications related activities and training and technical assistance grants for employee training and student programs, funded at \$20 million for the first year. Eligible entities for the funding are broad-based as well, to ensure that tribes, tribal colleges, and other entities can all work together to deliver the benefits of this measure to tribal members.

The status of tribal telecommunications infrastructure varies widely across the Nation. Some tribes include vast areas within their jurisdiction that lack basic telephone service or are struggling to keep the basic service they have. Other tribes are providing their members with high-speed internet services, wireless phones, and are exploring next-generation telecommunications technologies. The vast majority of tribes fall somewhere in between and are thinking about how they can best make the next step toward improved connectivity.

There is clearly no panacea for meeting the telecommunications needs of the tribes-only focused resources with flexibility to meet the unique needs of individual tribes can begin to address this dial-tone and digital divide in Indian country. With 12 different eligible activities plus training and the flexibility to enable any type of tribal government, institution, organization, or its partner to use these funds, tribes will be able to effectively use their block grants to meet the unique needs of their members under this measure.

This bill would allow eligible entities to use funds to increase tribal capacity to exercise regulatory authority by issuing their own telecommunications regulations and codes. Through this governmental function, tribes are not only delineating their expectations of how service should be provided on their reservations, but they are also exercising their sovereign right to manage affairs on their own lands. As you know, the Cheyenne River Telephone Authority is the first tribal telecommunications company, and we have found that we are by far the most capable provider on our reservation. We hope that other tribes take advantage of the programs that this bill envisions to create their own companies that exercise an important aspect of sovereignty in the 21st Century.

The ability of tribes to self-determine the best course of action for utilizing the funds that would be authorized under this legislation coupled with adequate enacted funding levels are vital to the success of this bill. Tribes will be eager to access these funds, so funding should certainly be set at the level of \$20 million at a minimum, and all eligible activities should be preserved as this bill moves forward.

NCAI supports the Native American Connectivity Act. We feel that this is a step in the right direction toward increasing the availability of telecommunications infrastructure in our communities. Of course, more can always be done. Over the course of the last decade, telephone service availability in Indian country has increased by 46 percent, largely due to the concerted push by this committee and the committed staff of the Federal Communications Commission. We need to keep that trend up, and we know it is possible. The New York Times has documented a 130-percent increase in telephone service in just the last year for the population of Iraq—an advance lauded as critical to the advancement of the Iraqi economy and people, just

as it is to ours. We know the same can be done in Indian country with a concerted Federal commitment.

The Native American Connectivity Act is a good-faith effort to provide our tribes with the resources to grow and strengthen our communities. Please accept our endorsement of this legislation, and we look forward to working with you to ensure that this important measure is passed into law in a timely manner. Thank you for your invitation to speak, and I welcome any questions the committee may have.

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