

# IDENTIFYING INDIAN AFFAIRS PRIORITIES FOR THE TRUMP ADMINISTRATION

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## HEARING

BEFORE THE

## COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

MARCH 8, 2017

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## **IDENTIFYING INDIAN AFFAIRS PRIORITIES FOR THE TRUMP ADMINISTRATION**

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**WEDNESDAY, MARCH 8, 2017**

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

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

### **OPENING STATEMENT OF HON. JOHN HOEVEN, U.S. SENATOR FROM NORTH DAKOTA**

The CHAIRMAN. I call this meeting of the Indian Affairs Committee to order.

I want to thank Secretary Zinke and all of our witnesses for being with us today, as well as all of the members of the Committee.

As it turns out, we have a vote at 2:30 p.m., so we will begin our hearing and then members can come and go and get in the vote. We will proceed with the witnesses and then to questions in the order people arrived following the early bird rule.

Also, I will ask that we begin, after some opening comments, with Secretary Zinke's comments and our other guests. However, I also have to note that the Secretary has a hard deadline of 3:40 p.m. by which time he has to depart.

What we will try to do is commence in an expeditious manner and make sure that we give members of the Committee as much opportunity as possible to ask Secretary Zinke questions or make comments. Hopefully if there are other witnesses who can stay longer, there may be an opportunity for further questions for them even after the 3:40 p.m. timeline.

With that, I do have some opening comments. I want to welcome Secretary Ryan Zinke, the 52nd Secretary of the Interior. That is historic. You are the 52nd Secretary. Congratulations to you.

Again, I thank all of our witnesses for being here today. I would note that Secretary Zinke asked that he be on a panel with the other witnesses as a way of showing how he wants to work with you in a very collaborative way going forward. I wanted to acknowledge that.

Secretary Zinke is appearing before this Committee just one week after being confirmed by the Senate and sworn into office. Thank you for following through with this commitment to this Committee. I believe this is the first Cabinet member from the new

Administration to testify before the Senate in his or her role as a Cabinet Secretary. It is a first for you and we thank you for that as well.

It is particularly noteworthy that he is testifying before our Committee on Indian issues, sitting alongside tribal leaders. I think that is significant. I also noted on your first day, you rode a horse to work. Having grown up with horses, I was frankly envious. It looked like a great time.

Secretary ZINKE. The horse's name is Tonto.

The CHAIRMAN. It was a great idea. Probably a lot of us wish we could do that once in a while, because it is a lot of fun.

Secretary Zinke has a positive track record of working with Indian tribes. As the lone Congressman from Montana, he represented seven Indian tribes. As then-Congressman, Secretary Zinke championed important issues for Native Americans including water rights, economic development, natural resources development, and introducing legislation that safeguards the lives of Native American women and children. This history should serve him well as he leads the Department of the Interior which carries out the government-to-government relationship, treaties, and the trust responsibilities between the United States and the 567 federally-recognized Indian tribes.

The Department also provides important programs and services that are vital to the Indian communities and millions of Native Americans across our Country.

I have additional remarks which, in the interest of time, I will make a part of the record.

I again want to acknowledge and thank all of you for being here, particularly Secretary Zinke for here at our request and doing it so quickly.

With that, I will turn to our Ranking Member.

**STATEMENT OF HON. TOM UDALL,  
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you very much, Chairman Hoeven.

This is an important oversight hearing to discuss priorities for Indian affairs at the Department of the Interior under Secretary Zinke's leadership.

I would like to recognize Chairman Torres of the All Pueblo Council of Governors who is the former governor of the Isleta Pueblo and now is Chairman of the APCG. You have shown strong leadership in matters of tribal sovereignty and self-determination. Welcome Chairman Torres. I look forward to hearing more about the council's priorities as you testify.

Mr. Secretary, congratulations on your confirmation. When you and I met several weeks ago, I urged you to be a strong advocate for Indian Country. These are uncertain times for a lot of folks. You assured me that you intend to be that advocate as Secretary of the Interior.

It is good to have you here although I am disappointed that you may have to leave a bit early. Our tribal witnesses traveled from all across the Country to hear and listen to you. I know that is why you wanted to be on this panel.

To make the most of our time and to allow maximum questioning of the Secretary, I would like to submit my prepared opening statement for the record.

I look forward to the testimony and working with all of you on the very important issues facing Indian Country. Once again, thank you to all the Indian leaders here today on this panel and in the audience.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM NEW MEXICO

Thank you, Chairman Hoeven, for holding this oversight hearing to discuss priorities for Indian Affairs at the Department of the Interior under Secretary Zinke's leadership.

I first would like to recognize Chairman Torres of the All Pueblo Council of Governors. As former Governor of Isleta Pueblo and now as chairman of APCG, he has shown strong leadership in matters of tribal sovereignty and self-determination. Welcome, Chairman Torres. I look forward to hearing more about the Council's priorities.

Mr. Secretary, congratulations on your confirmation. I saw that you rode a horse in to work on your first day. That certainly beats driving. In all seriousness, I look forward to working with you on the many important issues facing Indian country.

When you and I met several weeks ago, I urged you to be a strong advocate for Indian country. These are uncertain times for a lot of folks, and you assured me that you intend to be that advocate as Secretary of the Interior.

Secretary Zinke, you bring welcome expertise when it comes to Indian affairs. The very first bill you introduced as a member of the House was to federally recognize the Little Shell Tribe of Chippewa Indians. You also worked with my colleagues, Senators Tester and Daines, on the Blackfeet Water Rights Settlement Act. . . which was signed into law late last year.

I have worked on tribal water settlements for New Mexico tribes over the years. . . and I know how important it is to establish certainty with respect to their water rights. . . and to sovereignty over tribal resources. Water settlements are also critical to the long-term economic vitality for the states and surrounding communities. Congratulations to you, Senator Tester, Senator Daines, and the Blackfeet Nation.

With your background, you are certainly aware that your confirmation comes with a tremendous responsibility: to be the steward of the federal government's tribal trust responsibility. Because Congress has placed primary responsibility over Indian matters with the Department of the Interior. . . your leadership will define how the federal government satisfies its trust duties to tribes and all Native Americans.

The Federal Government's trust duties are vast. For example, the United States manages about 95 million acres for the benefit of tribes, 55 million of which are held in trust. To put that in perspective, the federal government manages more land for the benefit of tribes than the entire National Park Service oversees across the United States.

But the Federal Government's obligations go beyond management of tribal resources. This sacred duty also goes to tribal sovereignty, and the responsibility of the United States to meaningfully engage tribes on a government-to-government basis.

I've said it before and I'll say it again: tribal consultation is more than just a check-the-box exercise. True consultation requires best efforts on the part of the United States to collaborate so that tribal voices are heard and meaningfully considered.

I think you put it best in the message you sent to Interior employees on your first day: "sovereignty needs to mean something."

Mr. Secretary, I couldn't agree more.

Now, more than ever, we need Interior to be out front, leading on tribal issues. Whether we are talking about infrastructure, access to basic necessities like running water and electricity, or ways to improve tribal schools and economies. . . you will play a vital role in upholding the trust responsibility and making sure tribes are at the table.

The Federal Government owes tribes nothing less.

There are 567 federally-recognized tribes that are looking to you for your leadership.

23 of those tribes are in my home state of New Mexico. Chairman Torres, who traveled hundreds of miles to testify here today, represents 20 Pueblos, including the Ysleta del Sur in El Paso.

And they are all looking to you to set the tone for this Administration. . .to be its ambassador to Indian country and the primary advocate for Native people within the Federal Government.

Accordingly, I expect that you will surround yourself with talented, knowledgeable public servants and hold them accountable.

It is good to have you here, Mr. Secretary, as well as all our tribal witnesses. I'm glad the Administration has taken this opportunity to hear directly from tribal leaders at this hearing. I look forward to working with you all on these and many other issues of great importance to Indian country.

The CHAIRMAN. Thank you, Senator Udall.

Before turning to Senator Daines for some comments, I also want to mention that Jamie Azure, Councilman of the Turtle Mountain Band of Chippewa from my State of North Dakota was scheduled to be here but was not able to come. I want to acknowledge that Jamie Azure was to be here and thank the councilman but unfortunately, was not able to come for travel reasons.

Now I would like to turn to Senator Daines for a note of welcome.

**STATEMENT OF HON. STEVE DAINES,  
U.S. SENATOR FROM MONTANA**

Senator DAINES. Thank you, Mr. Chairman.

This is a historic moment for Montana. We have the first Montanan to ever serve in a President's Cabinet. We have a Montana tribal leader, a tribal chairman testifying on the same witness panel and both of Montana's Senators are on the dais.

Secretary Zinke and Chairman Not Afraid, welcome to the Committee. I want to note that both of our Montana witnesses are veterans of our Armed Forces. I would like to thank both of you for your service, your ongoing commitment to your Country and communities in your respective roles.

With Secretary Zinke now leading the Department of the Interior, we can truly say it is a new day for Indian Country. It is a new day for tribal sovereignty and a new day for prosperous tribal economies.

I look forward to discussing the most pressing actions that Congress and the Administration must take to support Indian tribes and uphold our sacred trust responsibility.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF HON. STEVE DAINES, U.S. SENATOR FROM MONTANA

This is an historic moment for Montana. Not only do we have before us the first Montanan to ever serve in a President's cabinet, we also have a Montana tribal leader testifying on the witness panel, and both of Montana's senators up on the dais.

I'll start by welcoming you, Mr. Secretary. And I must say, it really does feel good to finally be able to call you "Mr. Secretary!" As Montanans, you, Senator Tester, and I had the privilege growing up in a state with a rich Native American heritage. Montana is home to twelve federally recognized tribes, seven Indian reservations, and the state-recognized Little Shell Tribe.

We are also honored to be joined today by Crow Tribal Chairman AJ Not Afraid. Chairman Not Afraid was just elected last November and he and I had the chance to meet in my office a few short weeks ago. Among the items we discussed, Chairman Not Afraid shared with me the importance of coal to his nation's economy. Unfortunately, the Crow Tribe faced an uphill battle under the Obama administration



with one-size-fits all regulations like the EPA Power Plan and the Stream Protection Rule which would have deprived the Crow Tribe of desperately needed good-paying jobs.

I'd also like to note that our two Montana witnesses have something else in common: both have served in our armed forces. Secretary Zinke as a Navy SEAL for 23 years and Chairman Not Afraid in the Marine Corps from 1995–1999. I want to thank you both for your service and your ongoing commitment to country and community in your respective roles as secretary and chairman.

Now, with Secretary Zinke leading the Department of the Interior, we can truly say: It's a new day for Indian Country. It's a new day for tribal sovereignty. And it's a new day for prosperous tribal economies.

I look forward to hearing from the two of you and the other witnesses, who are also esteemed tribal leaders from across the country, on what are the most pressing actions Congress and the administration must take to support Indian tribes and uphold our sacred trust responsibility.

Thank you.

The CHAIRMAN. Senator Tester.

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

Senator TESTER. Thank you, Mr. Chairman.

I too want to welcome Secretary Zinke to the Committee for the first time, the first of which I hope will be many visits to this Committee.

Indian Country traditionally has been hard to explain to people, about the challenges that are. I know you know what those challenges are, sovereignty and self determination. I remember the first time I met with the large land-based tribes, I said, what are your priorities? After about 40 seconds, they said stop, you have to prioritize them. Look, the needs are many in Indian Country.

I think you understand that, Secretary Zinke. I think you also understand the fact that without proactive leadership within the Department and a good head at the BIA, we are not going to get these problems solved. I look forward to your leadership.

For Chairman Not Afraid, I want to welcome you to the Committee. It is also your first time as a newly elected Chair in Crow Country. We very much appreciate your leadership. You have some tough issues to tackle there but I know you are up to the challenge.

With that, I want to thank the Chairman once again for the opportunity to speak.

The CHAIRMAN. Are there other opening comments?

We will turn to Secretary Zinke for your comments.

**STATEMENT OF HON. RYAN ZINKE, SECRETARY, U.S.  
DEPARTMENT OF THE INTERIOR**

Secretary ZINKE. Thank you, Senator.

Good afternoon, Mr. Chairman, Mr. Vice Chairman and members of the Committee.

I would also like to extend a special thank you to my fellow Senators, Senators Daines and Tester. It is indeed a historic moment.

While it is my first hearing, it will not be my last. I would also like to thank my esteemed members on both my right and left flank. I look forward with each of you to growing a relationship and working together.

In the interest of time, I have consolidated my remarks to allow more questions. I know it is important.

I entered the department, as you know, just a few days ago but the challenges are many and real. Regardless of our political parties, our duty as Americans and leadership is to uphold our trust responsibilities and consult and collaborate on a meaningful basis and a government-to-government basis with the tribes all across our Country.

Growing up in Montana, I learned quickly that tribes are not monolithic. There are seven recognized tribes within Montana along with the Little Shell and the Chippewa Indians who are in the midst of the Federal recognition process. It is not easy. Each is spread out throughout the State of Montana and each has different aspirations, different opportunities and different ideas on how to govern within the tribes but most of all, self-determination is a unifying aspect.

In my experience, one thing is clear. Sovereignty should mean something. As Montana's lone congressman, I made it a priority to remain accessible to each of our tribal members from the Crow Nation and the great Blackfoot Nation so we could collaborate on their priorities. I have always viewed them as equals and not rivals. While we shared and debated our priorities and ideas, we always sought common ground.

As a warrior, I respected the culture and traditions and I agree with the unifying core value. If you must fight, fight for your people.

Now I have the honor to lead the very department that unfortunately has not always stood shoulder to shoulder with the tribes and communities they represent. Many reservations continue to struggle, as we are all aware. Oftentimes unemployment rates and lack of business opportunities prevail. Indian schools, roads and houses are literally falling apart.

Despite all this, the Administration has an opportunity to foster a new economic period of productivity through improved infrastructure, expanded access and the all of the above energy process.

I fully understand that not all tribes have access to energy resources or gambling and each tribe is different. As mentioned above, sovereignty should mean something. A decision to develop or not develop and cast their own future should be supported.

The President has remained steadfast in his commitment to infrastructure and seeks to address extensive maintenance backlogs that directly impede our Nation's economic growth and potential.

Safe roads and bridges support tribal economic development and determination by incentivizing investments in tribal communities. It is hard to invest in a tribal community unless the school, the hospital and the roads are conducive to investment.

While economic development and infrastructure will play an important role in revitalizing some communities, I recently read the Government Accountability Office High Risk Report for 2017 and the determinations were disheartening and devastating. Words cannot capture how terrible it is in some of our schools in Indian Country that the Bureau of Education is responsible for. Each student deserves a high quality education that prepares them for the future.

There are plenty of issues I know we will grapple with during my tenure at Interior. I know I have plenty to learn. I remain opti-

mistic because the great Nations deserve great leadership and the Nations themselves have great leadership.

Thank you for the opportunity to be before you today. I look forward to your questions.

[The prepared statement of Secretary Zinke follows:]

PREPARED STATEMENT OF HON. RYAN ZINKE, SECRETARY, U.S. DEPARTMENT OF THE  
INTERIOR

Good Afternoon, Chairman Hoeven, Vice-Chairman Udall, and Members of the Committee. Thank you for inviting me to testify before you today. I would also like to extend a thank you to my fellow Montana Senators, Steve Daines and Jon Tester, for their service on this Committee and for welcoming me here today. This is my first hearing since being confirmed as Secretary of the Interior and it is truly an honor to be here before the Senate Committee on Indian Affairs to discuss the Trump Administration's vision for Indian Country. I am also fortunate to share the panel today with an esteemed group of Tribal leaders from across the country. I look forward to working together with each of you as equals to grow and strengthen Indian Country.

I entered the Department just a few days ago, but the importance of my mission to partner with American Indians and Alaska Natives is one I do not take lightly. It is an issue of incredible importance to me personally. Regardless of political party, our duty as Americans is to uphold our trust responsibilities and consult and collaborate on a government-to-government basis with Tribes from Maine to Alaska.

Growing up in Montana, I learned very quickly that our Tribes are not monolithic. There are seven federally recognized Tribes in Montana, along with the Little Shell Tribe of Chippewa Indians who are in the midst of the federal recognition process. Each of them are spread throughout the entire state, working on their diverse priorities to provide for their people. In whatever form their economic development takes, from online lending to energy development, all tribes are sovereign and we must respect their right to self-determination.

In my experience, one thing is clear: sovereignty should mean something. As Montana's lone Congressman, I made it my priority to remain accessible to each of our Tribal members, from the Crow Nation to the Blackfeet Nation, so we could collaborate on their priorities on a leader-to-leader basis. I viewed them as equals, not rivals. We shared and debated our priorities and ideas while seeking common ground. As a warrior, I respected their culture and traditions greatly and I agree with the core value, "if you have to fight, fight for your people."

I am incredibly proud of the work Congress did to advance Montana tribes' priorities, such as the Blackfeet Water Rights Settlement, which was signed into law as part of the Water Infrastructure Improvements for the Nation (WIIN) Act. The warriors of the Blackfeet Nation, led by Chairman Harry Barnes, greatly sacrificed time and resources for this historic achievement. Congress also made tremendous headway on the Little Shell Federal Recognition bill, which passed out of the House Committee on Natural Resources for the first time in history. And lastly, Congress worked with the Crow Nation to support their energy development potential by extending the Indian Coal Production Tax Credit and demanding their rightful seat at the table with the Federal Government to actualize their treaty rights. I am grateful to have Chairman A.J. Not Afraid sitting next to me today to tell his story about their future goals and priorities for success and look forward to working together in my new capacity of Secretary of the Interior.

I now have the honor to lead the very Department that, unfortunately, has not always stood shoulder to shoulder with many of the Tribal communities for which it is tasked to fight. Many reservations continue to struggle with high unemployment rates and a lack of business opportunities. Indian schools, roads, and houses are literally falling apart. Despite all this, the Administration has an opportunity to foster a period of economic productivity through improved infrastructure and expanded access to an all-of-the-above energy development approach. I fully understand that not all nations have access to energy resources or choose to develop them and I respect their position. As I have mentioned earlier, sovereignty should mean something and the decision to develop resources is one that each tribe must make for itself.

The President has remained steadfast in his commitment to infrastructure and seeks to address the excessive maintenance backlog that directly impedes our nation's economic growth and potential. Safe roads and bridges support Tribal economic self-determination by incentivizing investment in tribal communities. My

team at Interior is already working to identify these top priorities within Indian country. I look forward to working with each of you here today and the Tribal leadership across our nation to continue this important discussion.

While economic development and infrastructure investments will play an important role in revitalizing Native communities, the immediate issues facing the Bureau of Indian Education must be addressed to ensure long-term stability in Indian country. I read the Government Accountability Office (GAO) High Risk Report for 2017; the determinations were disheartening and devastating. Words cannot capture how terrible it is that children in schools overseen by Bureau of Indian Education are so poorly served. Each of them deserves a high-quality education that prepares them for the future. Having served as Chairman of the Senate Education Committee during my time in the Montana State Legislature, I have a keen interest in education in rural communities. It is unacceptable that some of our students are attending schools that lack the most basic necessities, like insulation and clean water. We must also craft clear standards, develop measures for assessment, hire qualified teachers and principals to provide much needed leadership, and hold people accountable for mistakes. I do not expect to resolve these issues quickly, but I am personally invested in making real changes that will last.

There are plenty of other issues I know we will grapple with during my tenure at Interior. I have plenty to learn, but with your assistance I remain optimistic that we can work together with Tribes to foster stronger and more resilient Native communities.

#### Conclusion

One of the great privileges of my life was participating in the memorial ceremony for Michael Bell, a fellow Navy SEAL from the Fort Peck Assiniboine and Sioux Tribe. In between deployments in 2006, he was tragically murdered. Mike was a warrior I had the privilege of instructing as he began his SEAL career. To meet his family and pay respect to the life and sacrifices he made was truly humbling. In an incredibly moving tribute that same day, I was adopted into the Assiniboine family as an honorary member, and given a name and song.

I carry the honor of my traditional name, Wowonga Intacha, *Seal Leader*, with me today. As Secretary of the Interior, I will hold true the sacred words of my song, "as I walk this road in life, I will help people as I go." That said, there is strength in numbers, which is why I will need each and every one of you to assist me. This includes being accountable for your actions as we warrior ahead and make tough decisions to strengthen Tribal communities. In the SEALs, we are frequently reminded that "The Only Easy Day was Yesterday." As we begin the hard work before us, we must recognize that failure is not an option. I am here to listen, to accomplish your goals, and to move Indian Country forward to the best of my ability.

Thank you for the opportunity to share my views with the Committee. I look forward to working with you all and Tribes across the country to better the Bureau of Indian Affairs, Bureau of Indian Education, and all programs at Interior that impact Indian Country.

The CHAIRMAN. Thank you, Mr. Secretary.

We will turn to our other witnesses. I ask again that you keep your comments as succinct as possible so we can get into the questions and answers.

We will start with the Honorable Not Afraid, Jr.

#### STATEMENT OF HON. ALVIN NOT AFRAID, JR., CHAIRMAN, CROW NATION

Mr. NOT AFRAID. Thank you, Chair.

Good afternoon, on behalf of the Crow Nation. I want to thank Chairman Hoeven, Vice Chairman Udall, Senators Daines and Tester for having this opportunity, holding this oversight hearing and identifying Indian affairs priorities for the Trump Administration which would be held up by Secretary Zinke.

We feel that the Crow Nation, with the shoulder to shoulder aspect, can overcome some of the previous obstacles the Crow Nation had in the past as far as economic development, welfare and social being. I do appreciate the Administration appointing Secretary Zinke.

For many years, coal has been the mainstay of the Crow reservation economy. However, various Federal regulatory initiatives during the previous Administration in D.C. have had a serious toll on the western coal industry, especially in the production of coal and other Indian coal owners.

My administration is aggressively pursuing other economic development projects including renewable energy to diversify and reduce our dependence on coal revenues but those will take time, probably many years. To make major contributions to our efforts to achieve economic self sufficiency, one such tourism opportunity we can immediately address relates to a historic document, The Grizzly, a treaty of cooperation, cultural revitalization and restoration.

The Crow Nation was instrumental in this treaty which to date has been signed by 123 tribal nations and provides a blueprint for the Crow and other tribal Nations in this sphere with the promise of cultural, economic and environmental revitalization.

My written testimony provides a wide range overview on Crow economic priorities within a contemporary and cultural context. These foundational precepts of the tribal culture and governance are those we trust the Trump Administration will continue to recognize and further secure such as the welfare and being of Indian Country as a whole.

Within our present portfolio, it is essential for the Crow Nation to affirm its primacy provided by the Surface Mining Control and Reclamation Act of 1977. In that same vein, under Section 412 of the recently passed Crow Water Rights Settlement, the Crow Nation is authorized to market energy from the Yellowtail Dam. Again, Honorable Secretary Zinke, we would correspond as to that aspect.

A contract for marketing that power is a trust responsibility of the Trump Administration. I hope this can be expedited.

As a sovereign Nation, the Crow Tribe has the right to regulate our own lands and our resources. In tandem, green economic initiatives and the vast mineral resources held by Crow lands can ensure an enduring economic self sufficiency for the Crow people.

As Chairman of the Crow Nation, it is my responsibility to improve the quality of life for the Crow people by creating good paying jobs within the a diverse and expanding economic portfolio that reflects our ambitions for our seven future generations and at all times honor the values of our culture.

At this time, I have a gift for the Committee which is the Grizzly Treaty signed by all the 120-plus tribal leaders mentioned earlier depicted here. Staff may have this. That is to show the importance of not only our culture but tribes being cohesive in identifying what we would love to secure.

At this time, Mr. Chairman, Committee members, Secretary Zinke, I appreciate this opportunity and will answer any questions.

Thank you.

[The prepared statement of Mr. Not Afraid follows:]

PREPARED STATEMENT OF HON. ALVIN NOT AFRAID, JR., CHAIRMAN, CROW NATION

## **I. Introduction**

Good morning. On behalf of the Crow Nation, I want to thank Chairman Hoeven, Vice-Chairman Udall, Senators Daines and Tester, and the other distinguished members of the Senate Committee on Indian Affairs for holding this Oversight Hearing on Identifying Indian Affairs Priorities for the Trump Administration. My name is Alvin Not Afraid, Jr., and I am the Chairman of the Crow Nation. After serving 4 years as Tribal Secretary, I was elected Chairman last year and took office in December, 2016. I appreciate this invitation to provide testimony on economic priorities from the Crow Nation's perspective.

For many years, coal has been the mainstay of the Crow Reservation economy. However, various Federal regulatory initiatives during the previous administration in Washington, D.C. have taken a serious toll on the Western coal industry, and especially on the production of Crow and other Indian coal. My administration is aggressively pursuing other economic development projects, including renewable energy, to diversify and reduce our dependence on coal revenues, but those will take time – probably many years – to make major contributions to our efforts to achieve economic self-sufficiency.

Today, my testimony will focus on changes in Federal policies that will bring some much-needed near-term relief for Crow coal, while we transition to new clean-coal technologies, renewables, and other types of Tribal business enterprises. First, I'd like to give you some background on the Crow Nation and our Reservation lands, and our coal resources and development priorities.

## **II. Brief Overview of Crow Reservation, Land Issues and Resources**

### *A. Brief History of Land and Development Challenges*

The Crow Nation is a sovereign government located in southeastern Montana. The Crow Nation has three formal treaties with the federal government, concluding with the Fort Laramie Treaty of May 7, 1868. The Crow Reservation originally encompassed most of Wyoming and southeastern Montana, totaling 38.5 million acres. Through a series of treaties, agreements and unilateral federal laws over a 70 year span, Crow territory was reduced by 94% to its current 2.2 million acre area.

In addition to substantial land loss, the remaining tribal land base within the exterior boundary of the Crow Reservation was carved up by the Allotment Acts. By 1935, there were 5,507 Crow

allotments, consisting of 2,054,055 acres. The Big Horn and Pryor Mountains were not allotted and still remain reserved for the Crow Nation and its citizens.

The Crow land base has been further decimated by fractionated ownership of various allotments. The Department of the Interior ("DOI") estimated that over 10% of all fractionated lands within Indian country are actually within the Crow Reservation (with many parcels of allotted lands that have more than 100 owners).

During 2014 - 2015, the Crow Nation partnered with DOI and meaningfully addressed the fractionation issue through implementation of the *Cobell* Settlement. The Crow Land Buy-Back Program resulted in more than \$130 million paid out to Crow landowners, with more than 240,000 equivalent acres purchased for the Crow Nation.

Despite the success of the Crow LBBP, the overall loss of the Crow land base and allotment have resulted in checkerboard ownership of reservation lands, giving rise to overlapping governmental authority (federal, state, tribal and local). Sometimes, the land issues become cost prohibitive for project developers. As discussed later, tax incentives and other measures are critical in order to level the playing field for Indian energy projects.

#### *B. Present Land, Population, and Education*

Today, there are 14,000 enrolled citizens of the Crow Nation, with more than 9,000 of those residing within the exterior boundaries of the Reservation. Our Tribal membership consists of many young people – fully 58% of our members are under 30 years old. This demographic only reinforces the need to take a long-term view of the Reservation economy.

Our goal is to invite more of our citizens to return home to live and resume tribal relations, but we must be able to offer homes, jobs, and a place to find their dreams. Our current unemployment rate is between 25% and 47%, depending on whose statistics you use.

The Crow Nation has always emphasized higher education and we currently have more than 400 annual applications for higher education assistance. Because of federal funding limitations and internal budget constraints, however, we can only partially fund 90 students each year. In addition to providing financial support for education, we have a separately chartered tribal college (Little Bighorn College, "LBHC") that started operations in 1981. Among the hundreds of LBHC graduates, many are employed on and around the Crow Reservation in a variety of positions including teachers' aides, computer technicians, office managers and administrative assistants.

#### *C. Crow Coal – Past, Present and Future*

##### 1. The Absaloka Mine

The Crow Nation has very substantial undeveloped coal resources, estimated at 9 billion tons. The Crow Nation has developed a limited amount of its resource, by leasing a portion of its coal reserves for the past 40 years to Westmoreland Resources, Inc. ("WRI"). WRI owns and

operates the Absaloka Mine ("Mine"), supplying Powder River Basin coal to Midwestern utilities, and it has produced 200 million tons of coal since 1974. From the Mine's 5-7 million tons per year of coal production, it provides production taxes and royalties to the Crow Nation – exceeding \$20 million in 2010 when the Mine was operating at full capacity. The revenue generated from the Mine has represented as much as two-thirds of the Crow Nation's non-federal budget.

Furthermore, WRI employs a 70% tribal workforce, with an average annual salary of over \$66,000, and is the largest private employer within the Crow Reservation. The importance of the Mine to the economy of the Crow Reservation cannot be overstated. Without question, it is a critical source of jobs, financial support and domestically-produced energy. WRI has been the Crow Nation's most significant private partner over the past 40 years. During 2012-2013, the Tribe and WRI finalized a new lease agreement to extend the life of the Absaloka Mine for two more decades.

However, as my Administration begins its efforts to bring prosperity to the Crow people, the future of the Absaloka Mine has never been more uncertain. Production at the Absaloka Mine has fallen to only 3 million tons per year, and will stay at that level for at least the next 2 years. This is despite the previous Tribal administration agreeing to a reduction in our coal severance tax rates, which further compounds the loss in Tribal revenues.

In the past, Tribal royalties and coal severance tax revenues from the Mine totaled well over \$20 million per year, but it is now projected that we will receive less than one-half those amounts for the next few years. This large reduction in coal revenues has had a drastic effect on the Tribal Government workforce, including major layoffs and furloughs, and greatly reduced the levels of essential government and emergency services that we are able to provide for our membership.

## 2. The Big Metal Project

The Crow Nation has worked for many years to expand development of our vast coal resources. In 2013, the BIA approved our agreement with Cloud Peak Energy ("CPE") to explore, with options to lease and develop an estimated 1.4 billion tons of Crow coal in the southeastern corner of the Crow Reservation. This long-term project, named "Big Metal" from a Crow legend, will also provide much needed revenue to the Crow Nation, increase employment opportunities for Crow and Montana citizens, and diversify Tribal revenue sources.

Cloud Peak Energy (CPE) has demonstrated their commitment to both safety and the environment, and we appreciate their leadership as one of this country's largest coal producers. In addition, CPE has been a good partner with the Crow Nation, providing college scholarships to dozens of Crow students and supporting those in need. All of this has occurred while CPE has worked with the Tribe to complete exploratory drilling, secure surface rights, assess cultural resources that will need to be protected, and begin environmental base line work for the permitting process, all of which has been ongoing since 2014.



However, the Big Metal project faces the same challenges as the Absaloka Mine, with domestic coal markets steadily contracting due to Federal coal policies that have had a disproportionate impact on Tribal coal development. In addition, full development of the Big Metal project is largely dependent on coal exports to the Pacific Rim through ports in the Northwest, but efforts to expand coal export capacity through those ports have been consistently stymied by environmental challenges aimed at killing coal.

### 3. The Clean Coal Future

Finally, the Crow Nation has long recognized that the long-term benefits of our very large coal resource will depend on new clean coal technologies that address concerns with climate change. I would like to continue to build the first coal-to-liquids ("CTL") plant in North America with full carbon capture and utilization.

In 2008, the Crow Nation and our partner signed a project agreement to develop the Many Stars project, a coal-to-liquids project that would produce up to 50,000 barrels or more per day of ultra-clean jet and diesel fuel. The Crow Nation sought to contract with the U.S. Air Force and other local industries to supply clean fuel that would meaningfully reduce carbon emissions throughout the world, reduce America's dependence on foreign oil, and provide a safe and secure domestic fuel supply to our national defense.

Unfortunately, with the recession and financial crisis that hit in 2009, it became impossible to obtain the large investment needed for this type of cutting-edge project. Since then, there has been no concerted Federal policy to encourage the development of clean coal technology, carbon capture and sequestration, or other technologies and incentives that could save many good coal jobs throughout the country.

## III. Crow Nation Coal Policy Priorities

There are a number of changes in Federal policies and incentives that the Congress and the Trump Administration should take to provide both near- and long-term benefits for the continued, responsible development and production of Crow coal, while we diversify our Reservation economy to achieve economic self-sufficiency.

### A. *The OSMRE Stream Protection Rule*

First, I want to thank the Congress and President Trump for enacting the joint resolution under the Congressional Review Act disapproving the Office of Surface Mining's misguided Stream Protection Rule.

The proposed new regulations published by OSM in 2015 were originally intended to address some practices in the Eastern coal mines, but included onerous and unnecessary new requirements for Powder River Basin mines as well. The proposed new Rule was developed

without input from the West, and based on my discussions, neither the Federal or State regulators would have been able to implement it.

The Rule was also developed without meaningful consultation with the Crow Tribe, as required by Federal law, on the 2,000 pages of materials that accompanied the proposed rule. Unlike mines regulated by State authorities under SMCRA, the Rule would have had an immediate effect on the Absuloka mine which OSM regulates directly on Crow Reservation. It would have reduced the Mine's coal reserves, and further reduced sales of Crow coal at a time when the Tribe is already suffering from diminished coal production and prices.

We are greatly encouraged by this early and timely action to prevent devastating impacts on the mining of Crow coal. As further explained below, the mining of Crow coal is already subject to one of the most extensive regulatory programs in any industry under the Surface Mining Control and Reclamation Act (SMCRA), which the Crow Tribe has been working to assume authority to administer on our own lands.

#### *B. EPA's Clean Power Plan*

EPA's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," otherwise known as the "Clean Power Plan," was initially proposed in 2014 and required States to reduce carbon dioxide emissions from existing coal-fired power plants. Although it would have a major impact on the markets for Crow coal, it was developed without any consultation with the Crow Tribe, as required by Executive Order 13175. The Crow Nation and the Montana Attorney General sent joint comments to the EPA in December 2014, to express grave concern about the negative impact on the Crow Nation. Nevertheless, EPA finalized the proposed rule in 2015 without further Tribal consultation or consideration of these impacts.

The Clean Power Plan has already had a serious negative effect on Crow coal and the Crow Reservation economy. The great majority of Crow coal from the Absaloka Mine has been supplied to the Sherburne County Generating Station ("Sherco") near Minneapolis. However, as a result of Minnesota's efforts to comply with the Clean Power Plan, Units 1 and 2 at Sherco will be shut down soon. For Unit 3, which was designed for Crow coal, and is the largest, most modern and cleanest unit, the longer term future remains uncertain.

The Clean Power Plan must be rolled back to prevent further adverse impacts on Crow coal customers, especially on the newest and cleanest generating units that still have many years of productive life.

#### *C. Indian Coal Production Tax Credit – Leveling the Playing Field*

In addition to the EPA's Clean Power Plan, numerous practical problems consistently arise with each proposed Indian coal project. The lease approval and development process is burdensome, slow, and complicated. Federal regulatory requirements for appraisals, surface access approvals

and environmental assessments to conduct exploration within the Reservation often create significant delays. Further, incomplete land records, inadequate BIA staffing, and surface land fractionation (described above) create uncertainty that discourages investment and significantly impedes project development. It is extremely difficult to compete with off-reservation development because of these problems, even with the best efforts of particular BIA employees and the Crow Nation.

The Indian coal production tax credit ("ICPTC"), originally enacted in the 2005 Energy Policy Act, has kept the Absaloka Mine open and competitive since 2006. This \$2+ per ton tax credit is intended to "level the playing field" for Indian coal (currently Crow, Navajo and Hopi), by offsetting some of the additional regulatory hurdles we face. This credit neutralized the threat of a potential mine closure and continued the Absaloka Mine's ability to provide critical employment and revenue for essential Crow governmental functions. Under our agreements with Westmoreland, it has also yielded several millions of dollars in direct benefits to the Crow Nation, funds that are sorely needed now.

However, since 2013, the ICPTC has been extended on a year-to-year basis as part of the tax extender packages, and that has diminished its effectiveness by not providing certainty to support major long-term investments necessary for coal development. Worse still, it expired at the end of 2016.

In order to overcome all of the additional regulatory burdens and land transaction issues described above, the Crow Nation seeks a permanent extension of ICPTC. With this tax incentive made permanent, the Crow Nation would have the opportunity to compete with others on a level playing field. It will help sustain the Absaloka Mine, produce additional Tribal revenue, and encourage new coal development like CPE's Big Metal project.

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As mentioned above, the development of new coal utilization technologies will be very important to ensure the long-term economic viability of the Crow Nation's large coal resources. In addition to permanently extending the ICPTC, the Congress and the Trump Administration should focus on providing other tax incentives and direct support for clean coal technologies and carbon capture and sequestration. These measures will allow us to resurrect the Many Stars coal-to-liquids project in a modified form to produce ultra-clean fuels while addressing the criticisms of climate change advocates.

#### *D. Access to International Markets*

With the contraction of coal demand for utilities in the United States, the best hope for maintaining and expanding Crow coal production is the export market, primarily to modern new coal plants in Japan and South Korea. For example, major development of Cloud Peak Energy's Big Metal project on the Crow Reservation depends primarily on being able to export our coal, and an expanded marine export facility on the West Coast is essential infrastructure to support that effort. It also is important to note that Powder River Basin coal from Crow mines is lower in

sulfur dioxide and nitrogen oxide, which is better for the environment than the coal that is currently mined in Asian countries.

The Army Corps of Engineers recently denied permits for the Gateway Pacific Terminal, which would have provided the closest and most efficient way to ship Crow coal overseas. Also, protests to expanded rail shipments of coal from mines to the ports have been used to impede the environmental permitting process for new coal ports.

The last proposed new coal export terminal is the Millennium Bulk Terminals project in Longview, Washington. The Crow Tribe trusts that the Congress and the new Administration will ensure that the Army Corps and other Federal agencies do not unnecessarily delay or deny the needed permitting for this important project and others that may be developed in the future.

#### *E. Tribal Primacy Under SMCRA*

The Surface Mining Control and Reclamation Act of 1977 (SMCRA), created the U.S. Department of Interior's Office of Surface Mining and Reclamation Enforcement (OSMRE), and a comprehensive nationwide regulatory program for surface coal mining. The Act authorizes States to assume primary enforcement responsibility with OSMRE's approval and oversight, which has been done in most coal states including Montana.

The 2006 amendments to SMCRA authorized Tribes to also assume primary responsibility for its administration on Reservation lands. The Crow Tribe has been working diligently with OSM for several years to complete the requirements for undertaking this complex regulatory program. In 2009, the Crow Legislature enacted the Crow Coal Mining and Reclamation Act, which has undergone an extensive, detailed informal review by OSM. Trained Tribal personnel of the Crow Coal Regulatory Office (CCRO) currently participate in all inspections of the Absaloka Mine. In the future, we foresee undertaking full responsibility for new coal mine permitting with the time and funding to build capacity for this highly technical function.

As a sovereign nation, the Crow Tribe has the right to regulate our own lands and resources. What remains of the Crow Reservation will be our Nation's homeland for all time, and we have a continuing vital interest in protecting our people, land, air, water, wildlife and cultural resources from any negative effects of mining our valuable coal resources.

We trust that Secretary Zinke and the Congress will continue to support the Crow Nation's efforts to assume SMCRA Primacy, with the necessary funding, OSM staffing, and flexibility to accomplish this important task. For our part, I am taking measures to re-invigorate and prioritize the Tribe's work to satisfy the requirements for assuming Primacy, and look forward to working with OSMRE and the other DOI agencies toward a timely completion.

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For the Crow Nation at this pivotal time, the importance of SMCRA Primacy extends beyond just coal mining. We also have substantial resources of Gravel, Limestone, and Bentonite that are economically viable, and will help diversify the Reservation economy.

SMCRA Primacy is a stepping stone toward the extension of Tribal sovereignty to regulating development activities for these other minerals as well. When we have developed and demonstrated our capability to regulate surface coal mining under the most stringent requirements of SMCRA and Tribal law, the Tribe will most certainly be in a position to assume responsibility from the Bureau of Indian Affairs (BIA) and the Bureau of Land Management (BLM) for protecting the Reservation environment during development of these other Tribal mineral resources.

We also look forward to working with the Committee and the Secretary to adopt legislation and policies as necessary to facilitate the Crow Nation's regulation of other mineral development on our Reservation homeland.

#### *F. Abandoned Mine Lands Reclamation Fund*

For many years, the Absaroka coal mine paid a 35 cent-per-ton Reclamation Fee to the Federal government for the Abandoned Mine Lands fund. That Fee, currently 28 cents-per-ton, amounts to a Federal tax on Crow-owned coal, reducing the amounts of royalties and taxes that the Crow Nation could otherwise collect.

One of the other changes made by the 2006 SMCRA amendments was to authorize the return of a portion of the AML fund to the certified States and Tribes who have completed reclamation of most of their old abandoned mines. For the Crow Nation, this has meant several millions of dollars in funding, not only for old mine reclamation efforts but also for new infrastructure and community development projects.

However, there have recently been recurring efforts to divert certified States' and Tribes' shares of the AML fund to pay for Eastern coal miners' retirement benefits. While we understand concerns with the cutbacks in other funding, it is not fair or appropriate for Crow coal to subsidize those benefits, especially when we have so many immediate and pressing needs ourselves.

The Crow Nation hopes that the Congress and the new Administration will support the continued return of the AML funds to the certified Tribes and States from whom the Reclamation Fee is collected.

#### **IV. Conclusion**

Given our vast mineral resources, the Crow Nation can, and should, be economically self-sufficient. My administration, like others before it, desires to develop our mineral resources in an economically sound, environmentally responsible manner that is consistent with Crow culture and beliefs. More than anything, we desire to improve the Crow people's quality of life, create a future with good-paying jobs and employment benefits within the Crow Reservation, and provide hope and prosperity for the next seven generations of Crow citizens.

By leveling the playing field for developing clean Crow coal for domestic markets, exports and coal conversion, we firmly believe we can help ourselves while simultaneously meeting national energy goals -- achieving energy independence, securing a domestic supply of valuable energy, and reducing the country's dependence on foreign oil.

Mr. Chairman and Committee members, thank you again for the opportunity to testify on these important subjects before you today. I would be happy to answer any questions.

The CHAIRMAN. Thank you, Mr. Not Afraid. We will have questions after the testimony.

Mr. Anderson.

#### **STATEMENT OF HON. KEITH B. ANDERSON, VICE CHAIRMAN, SHAKOPEE MDEWAKANTON SIOUX COMMUNITY**

Mr. ANDERSON. Thank you, Mr. Chairman, Senator Franken from my State, Secretary Zinke and fellow tribal leaders.

On behalf of the Shakopee Dakota Tribal Government, let me take a few moments to describe our great expectations for Secretary Zinke and the Trump Administration.

Let me begin by sharing a bit of background on the Shakopee Tribe. For centuries, my Mdewakanton ancestors as Dakota stood our ground on what remains of our land even as the great cities of Minneapolis and St. Paul have grown towards us, bringing both opportunities, and challenges.

Our tribal enterprises have revitalized our region and our economy. It provides vital government resources for our tribe as well as for many of our neighbors. We are the largest employer in our county and have been for years.

We have forged over 60 intergovernmental agreements with our neighbor cities and counties providing essential and diverse services like top flight fire and rescue, state of the art water treatment, large scale organic recycling and so forth.

As an expression of our sovereignty and our culture, our tribe has become the largest tribal donor in Indian Country. We feel it is a responsibility. We are annually giving up to \$18 million in grants to less fortunate tribes and community organizations, 501(3)(c).

This all rests on one basic foundation, that the Shakopee Dakota Tribe is a government, a sovereign, deserving the respect of other sovereign governments. Sovereignty is why the Shakopee Dakota believe Secretary Zinke is worthy of support.

From his statement, on the first day he was nominated, Secretary Zinke has demonstrated that tribal sovereignty is one of his top priorities. As head of the Interior, Secretary Zinke now fills a key role in the government-to-government relationship with the Shakopee and every other tribal government.

As lead Federal trustee, Secretary Zinke has a solemn responsibility to honor and protect our sovereignty, our self governance and our self determination. He knows that when tribal sovereignty is respected, economic self sufficiency follows. When tribal sovereignty is attacked or overrun as inconvenient, the very survival of our culture and way of life is threatened.

Tribal sovereignty requires others to honor the decisions each tribe makes for its people, its resources and its own territories. Sovereignty is the shield against the hegemony of outsiders who think they would know what is best for us but who better than a tribe can know what is best for that tribe.

The Shakopee Dakota Tribe looks forward to working with Secretary Zinke to use tribal sovereignty to advance self determination and self sufficiency.

I will conclude by describing a few priorities we hope Secretary Zinke will help the President address. President Trump took office a few weeks ago promising change for regions of American that the Federal Government has long ignored. By any measure, those areas are much of Indian Country. They are remote, bypassed and ignored.

We would ask Secretary Zinke to ensure that the Trump Administration's infrastructure initiative is shaped to enable Indian Country to catch up to the rest of America. Making infrastructure work for Indian Country would mean allocating funds for the ex-

pansion of new infrastructure in rural America so that Indian tribes can truly enjoy an equal opportunity for access to jobs, markets, education, health and services on par with the rest of America and still be able to live on their homelands.

Secretary Zinke, as lead Federal trustee, you will have to work hard to ensure that every Federal agency adheres to meaningful consultation with each tribe effected by Federal action. By meaningful consultation, I mean it must mean early and responsive decision-making and should be in partnership with each affected tribal government.

We would ask Secretary Zinke, as Indian Country's leading advocate with the Trump Administration, to forcefully support meaningful tax reform that allows only tribal governments, not other governments, to tax economic activity on tribal lands.

These tribal empowerment zones where the only taxing authority is the tribal government would end the heavy burden of dual taxation in Indian Country. This would spur private sector investment in what would be minimum tax areas.

This kind of big idea tax reform will help restore the territorial sovereignty of tribal governments over tribal economies further leading to self sufficiency.

Finally, we would ask Secretary Zinke, as the steward of America's trust responsibility toward tribes and Native peoples, to protect and expand Federal funding for essential government services in Indian Country, services that have been systematically and chronically underfunded for generations.

We will encourage the Secretary to make maximum use of funding to direct tribal governments through self determination and self governance authorities and thereby curb Federal bureaucracy's appetite to devour limited Federal funding before reaching Indian Country.

When Secretary Zinke and President Trump face competing pressure to allow scarce Federal funds, we would ask Secretary Zinke to remind his colleagues in the Administration of the many contributions in blood and treasure that Native tribes have made to the welfare of the United States over two centuries. We will ask that he help maintain that Federal funding that is inherently owed all Indian tribes under the trust responsibility.

I say that we are very, very fortunate. I do not want to mislead anybody about Indian gaming. For every one of us, there are probably 12, 15 or maybe 20 casinos that provide jobs and add to the government coffers. Tribal gaming is working. We just happen to be very, very fortunate. In the rural areas, it is not enough.

Last, Secretary Zinke we would ask that you take the lead within the Trump Administration to secure early enactment of the Tribal Labor Sovereignty Act of 2017, Senator Moran's bill, S. 63, and restore seven decades of legal precedence by putting tribal government employers back on par with all the other sovereign government employers.

This bill is about tribal sovereignty and not about professional negotiators ruling all of the work that you have done here in Washington to recognize the inherent rights of tribes. Sir, we will need your personal leadership to help make this correction.

Mr. Chairman and Senators, thank you for this opportunity to outline some directions worthy of support for Secretary Zinke and President Trump.

I am happy to answer any questions you may have or that I have not answered. Thank you very much.

[The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF HON. KEITH B. ANDERSON, VICE CHAIRMAN, SHAKOPEE  
MDEWAKANTON SIOUX COMMUNITY

### **Introduction**

Good afternoon, Chairman Hoeven, Senator Franken, Members of the Committee, Secretary Zinke, fellow tribal leaders.

On behalf of my Shakopee tribal government, I want to thank the Committee for this opportunity to describe our great expectations for—

- What Secretary Zinke will be able to accomplish at the Interior Department, and
- What we hope are priorities for the Trump Administration.

### **Let Me Begin by Sharing a bit of Background on the Shakopee Tribe**

For centuries, my Mdewakanton ancestors have lived in the larger area surrounding what remains today of our Shakopee Reservation. We Dakota people have stood our ground, even as the great cities of Minneapolis and St. Paul have grown up around us, bringing both opportunities, and challenges, to our tribal community.

The Shakopee Tribe has played a key role in the economic revitalization of our region. Our tribally-owned and controlled enterprises are a vital source of governmental revenue for ourselves and for many of our neighbors.

For years, the Shakopee Tribe has been the largest employer in Scott County, and regularly is awarded the honor of being one of the “top work places” in Minnesota.

The Shakopee tribal government has forged over 60 inter-governmental agreements with our neighbors, for whom our Tribe provides essential governmental services in such diverse areas as—

- top-flight fire and rescue;
- state-of-the-art waste water treatment;
- alternative wind and solar energy production;
- large-scale organics recycling;
- diverse transportation planning and development; and
- mobile medical and emergency command centers.

The Shakopee Tribe is the largest tribal donor in Indian Country, annually giving 18 million dollars or more in grants to less fortunate Indian tribes and community organizations. In recent years, we have focused our efforts on the production and distribution of food and information that supports healthy lifestyles, contributing over 5 million dollars to efforts to strengthen Native food sovereignty.

### **“Sovereignty” is Why the Shakopee Tribe Believes Secretary Zinke is Worthy of Support**

From his days in the House of Representatives to the day he was nominated Secretary, Mr. Zinke has shown that tribal sovereignty is at the top of his list of priorities.

As Interior Secretary, Mr. Zinke will fill a key role in the government-to-government relationship with Shakopee and every other tribal government. As lead trustee, Secretary Zinke has a solemn responsibility to honor and protect our sovereignty, self-governance, and self-determination.

All of what the Shakopee Tribe does, for others, and with other governments, rests on one basic foundation—the Shakopee Tribe is a government, a sovereign, worthy of respect by other sovereign governments.

Shakopee is a text book example of the fact that, when tribal governmental sovereignty is respected, economic success follows.

At the same time, any attack on our core tribal identity—any bypassing of our sovereignty as inconvenient—is a direct assault on our culture and way of life.

By definition, tribal sovereignty is expressed and exercised in different ways. Respecting sovereignty means the rest of us honor the decisions each tribe makes for its own people, its own resources, its own territory. Sovereignty is a tribe’s shield against the arrogant hegemony of outsiders who think they know what’s best for



a tribe, whether they are called local governments, conservationists, environmentalists, federal trustees, or hungry corporations.

Secretary Zinke understands and respects tribal sovereignty. The Shakopee Tribe looks forward to working with him and his colleagues in the Trump Administration to preserve and protect tribal sovereignty in ways that advance tribal self-determination and self-sufficiency.

#### **Here Are Some Priorities That Secretary Zinke Can Help President Trump Address**

President Trump took office a few weeks ago promising change for the regions of America that the federal government has long ignored. By any measure, that includes much of Indian Country.

The Shakopee Tribe will ask Secretary Zinke to ensure that the Trump Administration's infrastructure initiative is shaped to enable Indian Country to catch up to the rest of America. That will mean allocating public funds to extend new infrastructure into rural America so that Native American communities can finally have an equal opportunity to access jobs, markets, education, health and other services on par with the rest of Americans without having to move away from our homelands. It will also mean that Secretary Zinke, as the lead federal trustee for tribes, will have to work hard with every federal agency to ensure they adhere to meaningful consultation with each tribal government affected by a proposed federal action. Meaningful consultation means real, open, early, and responsive mutual decision-making in partnership with tribal governments.

We will ask Secretary Zinke, as Indian Country's leading advocate within the Trump Administration, to forcefully support meaningful tax reform that allows only tribal governments—no other governments—to tax economic activity on Indian land. This would end the heavy burden of dual taxation in Indian Country. And it would spur private sector investment in what would be low or no-tax tribal empowerment zones. This kind of bold, big idea would restore the territorial sovereignty of tribal governments over their economies. We will also ask Secretary Zinke to encourage more targeted and robust tax credits for investment in Indian Country.

We will ask Secretary Zinke, as the steward of America's trust responsibility toward Indian tribes and Native Americans, to protect and expand federal financial support for essential governmental services in Indian Country that have been systematically and chronically underfunded for generations. We will encourage Secretary Zinke to make maximum use of direct funding to tribal governments through the Indian Self-Determination and Tribal Self-Governance authorities, and thereby curb the federal bureaucracy's tendency to consume limited federal funding before it can reach Indian Country. When Secretary Zinke and President Trump face competing pressures to allocate scarce federal funds, we will ask Secretary Zinke to remind his colleagues in the Administration of the many contributions in blood and treasure that Indian Country has already made to the welfare of the United States. The Shakopee Tribe's financial success in the gaming market is an exception to the experience of most tribal governments, and so we will ask Secretary Zinke to help preserve the federal funding that is owed all Indian tribes under the trust responsibility.

And finally, we will ask Secretary Zinke to take the lead within the Trump Administration to secure early enactment of the Tribal Labor Sovereignty Act of 2017, Senator Moran's bill—S. 63. That bill would restore seven decades of legal precedent by treating tribal government employers the same as all other sovereign governmental employers. This bill is not about labor unions, it is about tribal sovereignty, about our tribal right to set our own laws for our own employees on our own lands.

Mr. Chairman, thank you for this opportunity to outline some new directions we believe are worthy of support from Secretary Zinke and President Trump. I would be most pleased to answer any questions you may have.

#### **STATEMENT OF HON. JAMES LANKFORD, U.S. SENATOR FROM OKLAHOMA**

Senator LANKFORD. [Presiding.] Thank you.

Let me take a moment, as the temporary Chairman, to also introduce the next person on our panel. I will take some personal privilege on this. This is a friend and a fellow Oklahoman, Lt. Governor Keel.

I would introduce him as a leader of the Chickasaw Nation, an extremely well run tribe which has made tremendous progress in

many areas in Oklahoma, a great partner in Oklahoma. He also is someone who has been a past President of the National Congress of American Indians. He brings a lot of experience with that.

Lest you consider fooling with him, he is also a 20-year Airborne Ranger with two extended tours in Vietnam, a Bronze Star with a V for valor and two Purple Hearts.

We are glad you are here and I look forward to receiving your testimony as a fellow Oklahoman.

**STATEMENT OF HON. JEFFERSON KEEL, LIEUTENANT  
GOVERNOR. CHICKASAW NATION**

Mr. KEEL. Thank you, Senator.

Mr. Chairman and fellow Senators, thank you for allowing me this opportunity.

Today, I speak on behalf of the Chickasaw Nation as Lieutenant Governor and on behalf of Governor Bill Anoatubby and the people of the Chickasaw Nation.

We look forward to working with this Committee and Secretary Zinke in protecting our treaty rights and enhancing the Federal tribal trust relationship. Full Federal recognition of tribal sovereignty, as affirmed by the United States Constitution, is of paramount importance to Indian Country.

We look to this Congress and the Trump Administration to continue the long-standing Federal policy of engaging with tribal sovereigns on a government-to-government basis. This principal is fundamental to all issues that will come before you arising from Indian Country. All too often, Federal statutes and regulations treat tribal governments differently than every other form of government. We look forward to making sure that the tribal consultation policy is continued.

We commend the new Administration's policy to affirm and commit to existing policies. One example of this body strengthening Federal laws provision of parity to tribal sovereigns is the action you just heard from the previous speaker relating to the National Labor Relations Board.

I commend Senator Moran for moving this bill forward. We look forward to seeing that come to fruition.

We applaud the President's commitment to the veterans who have served and proudly serve today to protect our great Nation. We ask that Secretary Zinke work with the Department of Veterans Affairs to include them in future consultations and considerations.

One thing Secretary Zinke is not charged with but we ask for is swift action to reauthorize the Native American Housing Assistance and Self Determination Act which does affect our veterans and all of our tribal members across the Country.

We support the concept of vigorously investing in our Nation's critical infrastructure. We believe tribes should be full participants in any and every program authorized by Congress and that funds for such projects should flow directly to tribes and not necessarily run through State governments.

Not all tribes have a good relationship with their State governments. Fortunately, we do, but that is not always the case.

Again, we believe tax reform would present great opportunities to incentivize tribal investment and bring badly needed opportunities to Indian Country. Your success in these efforts would have a tremendous positive impact on Indian Country.

The Chickasaw Nation works closely with the Federal Government in the provision of a wide variety of services to our citizens including programs addressing suicide prevention, mental health and substance abuse, child welfare, domestic violence and sexual assault.

We administer many of these Federal programs under self governance compacts and have been a leader in the IHS Joint Venture Program and other joint venture activities. We commend you and ask that Secretary Zinke continue his commitment to ensuring that the compacting system remains strong.

We appreciate passage of the Violence Against Women Act by Congress which is key to the protection and well being of Indian women, which is among the most basic responsibilities of any government.

Education is a high priority for the Chickasaw Nation. We believe that preparing our people for the future and giving them the right tools for success begins with education.

Broadband Internet availability is an important aspect of the infrastructure challenges facing Indian Country. Tribal citizens access only Internet connectivity speeds that are far below the FCC broadband standard.

We believe that Interior could help to facilitate the infrastructure challenges in Indian Country and would ask you to work with the FCC to make that happen, Mr. Secretary.

We would ask the government to continue to provide supportive funding for tribal repatriation efforts in protecting our sacred lands. Further, we would ask that you consider developing legislation to aid indigenous people seeking international return of our ancestors and the items of cultural patrimony.

We support the Department of the Interior in reforming the Indian Trader Act and the attendant regulations. We encourage the Department to both modernize the regulatory framework and streamline mechanisms for tribes to conduct direct oversight of the Federal regulatory system via the appropriate self governance compacts.

We look forward to working with you, Mr. Secretary. I thank you for your service and look forward to answering any questions you may have.

[The prepared statement of Mr. Keel follows:]

PREPARED STATEMENT OF HON. JEFFERSON KEEL, LIEUTENANT GOVERNOR.  
CHICKASAW NATION

Chairman Hoeven, Ranking Member Udall and members of the Committee, thank you for inviting me to testify in today's important hearing to identify Indian Country priorities for the new Trump Administration. My name is Jefferson Keel. I serve as the Lieutenant Governor of the Chickasaw Nation and speak today on behalf of Chickasaw Nation Governor Bill Anoatubby and the people of the Chickasaw Nation.

We look forward to working with and supporting Secretary Zinke in protecting our treaty rights and carrying out the federal trust relationship to tribes. Full federal recognition of tribal sovereignty, as that status is recognized in the United States Constitution, is of paramount importance to Indian country. We look to this Con-

gress and the Trump Administration to continue the long-standing federal policy of engaging with tribal sovereigns on a government-to-government basis. This principal is fundamental to all issues that will come before you arising from Indian country.

Federal policies supporting American Indian tribal self-determination and self-governance grows directly from the government's respect for the importance and value of tribal sovereignty. It is a simple fact that these policies work because they rest on the core principal that tribal peoples are in the best position to address the issues affecting their own communities. This Committee has helped lead the way in crafting policies that support tribal self-determination and self-governance, and while we have accomplished great things, much remains to be done.

All too often, federal statutes and regulations treat tribal governments differently than every other form of government. While the Constitution establishes tribal governments as sovereigns with rights and responsibilities similar to those of states, in practice, policies are almost always more restrictive for tribes. Indian country has, accordingly, long called for parity—for the treatment of tribal sovereigns in a manner consistent with what states and other sovereigns within the United States system are afforded by federal law. Indeed, given the federal fiduciary obligation to protect tribal sovereignty, we believe our argument for such treatment is even stronger than the states, in many instances.

We commend the new administration's policy to affirm and commit to existing tribal consultation policies, which establish frameworks for meaningful government-to-government engagement and collaboration. We believe such frameworks are essential to a high functioning federal-tribal dynamic and call on this Congress and Administration to deepen and enhance its commitment to effective consultation, wherever and whenever possible. We believe all executive departments and agencies should consult and collaborate with tribes on the development of federal policies with tribal implications, and we believe this is true whether the government is considering the establishment of a new statutory or regulatory provision or the repeal or abrogation of an existing one. Doing so will strengthen our government-to-government relationship and further empower the unparalleled progress made in Indian country since the advent of these policies in the late-1960s.

One example of this body's pragmatic responsiveness to strengthening the federal law's provision of parity to tribal sovereigns is recent action relating to the National Labor Relations Board. Several years ago, the Board administratively set aside decades of settled policy and law and determined, notwithstanding its own profession of having no expertise in federal Indian law, that tribal actors are not all entitled to the protection of tribal sovereignty. Specifically, the Board concluded that non-tribal labor organizations could assert the protections of the National Labor Relations Act against tribal government employers—treating tribal governments in a manner that no state or territory has ever been subjected to. The Chickasaw Nation litigated the matter for several years before the Board finally acknowledged that our sovereignty and treaties with the United States demand the parity of treatment we claimed. But other tribes do not benefit from our treaties, and nothing necessarily precludes the Board from again changing its mind as to what respect it should afford these sources of federal law. I want to thank this committee and our champion on this issue, Sen. Jerry Moran, for recognizing the untenable position in which this put tribal sovereigns and the quick approval of S. 63, the Tribal Labor Sovereignty Act. Mr. Chairman, I respectfully urge you to work closely with your colleagues to bring this important issue to a vote by the full Senate as soon as possible. Basic fairness and adherence to long-standing policies regarding tribal sovereignty would support such action.

We also urge swift action to reauthorize the Native American Housing Assistance and Self Determination Act (NAHASDA) by the committee and the Senate. For several years running, the House has overwhelmingly passed a NAHASDA reauthorization with a large bipartisan majority, but Indian country has been forced to wait on reauthorization in the Senate because one or two senators have put holds on the measure—blocking the will of the body and ignoring the needs of Native peoples. This issue is too important to let another two years go by without approval. Indian country and this successful program deserve better.

Another timely issue of critical concern is the status of the Indian Health Care Improvement Act. That measure was permanently reauthorized after a decade-long bipartisan effort to enact the measure; however, it was unfortunately tucked into the Affordable Care Act in 2010. The Indian Health Care Improvement Act, which stands apart from the rest of the Obamacare measures, is critical to the provision of health care throughout Indian country and must be safeguarded in any effort to change federal health care laws.

There are a number of other issues inside the Affordable Care Act that I would like to bring to the committee's attention. We believe, for example, that the employer mandate represents an unwarranted intrusion on tribal self-government. In addition to health services to our tribal citizens, the Chickasaw Nation provides generous health care insurance coverages to all its employees—benefits that far exceed the standards in the prevailing market—and the Act's mandate created complications and burdens where no problem could be shown. We would also point out that the Act uses a definition of Native Americans that differs from that found in other parts of the U.S. Code and the regulations, which has been widely acknowledged as a drafting error over the years. We urge the committee to correct this error in any legislation on the subject. Finally, tribal health departments have well developed third party payer arrangements with Medicare, Medicaid, the Department of Veterans Affairs, and other federal programs. Congress should pay careful attention to nuance and detail in overhauling the Act so that these relationships are not inadvertently disrupted or unsettled.

We applaud the President's commitment to the veterans who have served and proudly serve today to protect our great nation. On a daily basis active duty members become veterans, and too many veterans return home to find that their greatest challenges still lie ahead. The Chickasaw Nation is committed to finding the path for our veterans to become leaders, both in the community and tribal government, teachers, business owners, active citizens and successful parents. We work closely with the U.S. Department of Veterans Affairs and have established a good relationship with the Office of Tribal Government Relations in the VA.

President Trump has spoken for many months about a wide-ranging infrastructure package. We support the concept of vigorously investing in our nation's roads, airports, waterways, water and sanitation systems, and other critical infrastructure. Indian country has, for generations, faced chronic shortages of public and private investment in this area, which adversely affects public safety as well as opportunities for sustainable economic development and self-sufficiency. We believe tribes should be full participants in any and every program authorized by Congress for the rehabilitation of aging or the development of new infrastructure. We further believe funds for such projects should flow directly to tribes rather than be run through state governments, which have not always adequately addressed Indian country needs. In Oklahoma, we work closely with our colleagues in local government and the Oklahoma Department of Transportation to identify and execute projects that help the entire community but are of particular importance to tribal citizens. Without an ability to bring funds under our control to the bargaining table, tribal needs and interests would likely not receive the prioritization they deserve.

We believe tax reform would present great opportunities to incentivize tribal investment and bring badly needed opportunities to Indian country. We commend the Native American Financial Officers Association and the outstanding work they have done identifying workable tax and pension reforms that would have an immediate beneficial impact on tribal economies. In particular, we commend efforts to repeal the "essential governmental function" rule that applies to tribal bonds and which forces tribes to maintain two separate pension or employee retirement programs. Members of this committee and the Senate Finance Committee have been working hard to address this particular matter, and we thank you. Your success in these efforts would have tremendous positive impact on Indian country.

We also believe that the New Markets Tax Credit program has already demonstrated its utility for Indian country development and suggest the program should be expanded and stabilized. The Chickasaw Nation was recently awarded a \$20 million allocation and is facilitating economic development projects throughout Indian country with these monies—projects that are creating jobs, enhancing infrastructure, and deepening service provision and tribal entrepreneurship. We previously used a New Markets Tax Credit allocation to completely redevelop an outdated and dilapidated Indian Health Service facility in Ada, Oklahoma, to serve now as the Carl Albert Service Center, a multi-purpose tribal government facility. Both the construction and the operation of this new facility has been an economic and programmatic boon to the community. We believe Congress should support the allocation of a stable revenue stream to support the implementation of this program in Indian country.

The Chickasaw Nation works closely with the Federal Government in the provision of a wide variety of services to our citizens. Often times, we administer federal programs under 638 self-governance compacts. We have been a leader in the Indian Health Service's joint venture program—which we used in conjunction with \$220 million of our own funds, to construct and equip three health facilities, including the 80-bed Chickasaw Nation Medical Center in Ada, Oklahoma, which serves American Indians throughout southeast Oklahoma. Our facilities in Ada, Ardmore,

and Tishomingo provide critically needed health services in this region, which we operate in conjunction with other services and programs addressing suicide prevention, mental health and substance abuse, child welfare, domestic violence, and sexual assault. Without continued federal support for self-governance compacts, Indian country, American Indians, our citizens would be deprived of these programs and services, and we commend you for your continued commitment to ensuring that the compacting system remains strong and vital to the federal-tribal relationship.

We appreciate Congress's passage of the Violence Against Women Act, which statute is key to the protection and well-being of American Indian women—among the most basic responsibilities of any government. This legislation provides American Indian tribes the tools to enable to do even more to help keep Native American women safe through effective law enforcement and prosecution. We thank you for your continued support for this measure, now and when it is due for reauthorization.

Our own work under the Violence Against Women Act supplements our other law enforcement programs throughout the Chickasaw Nation. We have made it a priority to work closely with federal, state and local law enforcement agencies within a complicated jurisdictional landscape to protect and serve all citizens of Oklahoma, and federal support for these efforts through the Self-Governance Compact and Community Policing Act is important to continued success of the Chickasaw Lighthorse Police.

Additional governmental services include the Johnson-O'Malley education program, high school equivalence tutoring and testing. Education has long been a high priority for the Chickasaw Nation. Therefore, we request the Chickasaw Nation High School Equivalency (HSE) testing centers and certification and transcript issuing processes be certified and recognized by the U.S. Department of Education. While the U.S. Department of Post-Secondary Education currently only recognizes state-issued HSE transcripts, the Chickasaw Nation HSE testing center policies are set up to adhere to equivalent security and testing practices as those of state recognized testing centers. We have a signed and approved Educational Testing Service contract in place to provide the HiSET exam which is one of three HSE tests federally recognized by the U.S. Department of Education and has been approved in 21 states. The exam aligns itself to the College and Career Readiness Standards for Adult Education.

Broadband Internet availability is an important aspect of the infrastructure challenges facing Indian Country. Tribal citizens access only Internet connectivity speeds that are far below the FCC broadband standard. This limitation stifles economic development, technical advances like tele-medicine, and negatively impacts education by accelerating the already increasing homework gap. Current federal funding models are aimed primarily at for-profit businesses and often focus on specific institutions that provide too little service to those in need. Tribes are dedicated to improving the lives of the traditionally underserved including tribal citizens, rural schools and health care institutions, and those living in economically depressed areas. Directing funds to groups such as tribes could improve the likelihood of these funds benefiting those who need it most, and we ask that you remember Indian country when considering any measure to upgrade the country's Internet availability.

Chickasaw identity is founded upon a unique and special heritage embodied in our language, our sacred sites and our traditional knowledge. Repatriation of our ancestors' remains is extremely important to us. The repatriation process, however, can take many years to complete. The Chickasaw Nation aboriginal homeland in the southeastern United States is rich with generations of our ancestors, including archaeological sites and sacred burial places. In 2016 the Chickasaw Nation actively pursued 21 repatriations, which will allow us to take care of 4,034 of our ancestors and thousands of their funerary objects. We ask the government to continue to provide supportive funding for tribal repatriation efforts, both culturally affiliated and culturally unidentifiable. We further ask that you consider developing legislation to aid indigenous peoples seeking the international return of ancestors and items of cultural patrimony.

Finally, I want to touch on a recent announcement by the Department of the Interior about reforming the Indian Trader Act and attendant regulations. We believe this effort to be representative of the well-intended work by career staff across Administrations of both parties. We support this effort and believe there is good work to be done on this front. We would, and will, encourage the Department both to modernize the regulatory framework and to streamline mechanisms for tribes to conduct direct oversight of the federal regulatory system via appropriate self-governance compacts. We would, and will, also urge the Department to proceed carefully in its effort—with the principal of “do no harm” clear and foremost in mind. Given

the complexities of the federal common law of Indian affairs, any statutory and regulatory change must be approached carefully and with due consideration of potential unintended consequences. Indeed, a number of important Supreme Court decisions rest on the preemptive scope of the Indian Trader Statutes and implementing regulations. In attempting any update of those laws, the Department must not displace or alter the careful balance of sovereign interests that those decisions uphold. While we support update and reform—indeed, we would applaud it—we also ask that caution be observed in all future actions.

Thank you for your time and for holding this important hearing. I look forward to answering your questions.

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

Senator BARRASSO. [Presiding.] Thank you very much, Lt. Governor Keel.

I would next like to add my welcome to Chairman Torres to that already offered by Senator Udall.

We will next hear from the Honorable Paul Torres, Chairman of the All Pueblo Council of Governors from New Mexico. Welcome.

**STATEMENT OF HON. PAUL TORRES, CHAIRMAN, ALL PUEBLO  
COUNCIL OF GOVERNORS**

Mr. TORRES. [Greeting in native language.] Good afternoon, Chairman Hoeven, Vice Chairman Udall and members of the Committee.

Thank you for this opportunity to testify. My name is Paul Torres. I am the Chairman of the All Pueblo Council of Governors in New Mexico, consisting of 20 Pueblos, 19 in New Mexico and 1 from Texas. I have also served as Governor for the Pueblo of Isleta for two terms.

My oral testimony will focus on three APCG priority issues for the Trump Administration. One is tribal consultation; two, the Federal Indian budget; and three, Indian health care.

The Federal Government's trust responsibility to tribes is fulfilled, in part, by regular, direct and meaningful tribal consultation. Such consultation provides tribal leaders with an opportunity to educate Federal officials on the impact of Federal actions on tribal communities. Meaningful consultation means tribal consent for Federal actions that could significantly impact tribal interests. Without a consent requirement, too many Federal officials simply check the box of tribal consultation with terrible consequences for tribes and the Nation.

We urge the Trump Administration to reaffirm the practice of meaningful government-to-government consultation and to continue the White House Tribal Nations Conference so the President can hear firsthand from tribal leaders on a regular basis. Because of the Federal Government's trust responsibility, which arises out of a long and at times tortured history between indigenous tribal governments and the United States, both Congress and the Executive Branch are obligated to protect the interests of Indian tribes and communities.

Much of that obligation is reflected in the Federal budget which supports tribal governments and funds education, health care, public safety, transportation and economic development initiatives on Pueblo and tribal lands.

The across-the-board cuts to non-defense discretionary spending proposed by the Administration are alarming. Just like sequestration, these cuts would hurt the Pueblo severely. The majority of the Federal programs in Pueblo Country are underfunded, discretionary in nature and not exempt from the President's plan. Pueblos are more severely impacted by Federal budget cuts than most other communities.

Congress did not confine funding for Pueblo programs to the Department of the Interior and the Bureau of Indian Affairs. Congress embedded significant funding in the EPA, the Forest Service, the USDA, Energy, Education, Health and Human Services, Commerce, Housing and Urban Development and other agencies. Budget cuts to these departments therefore post an immediate negative impact and unacceptable risk to the health, safety and welfare of our people and our lands.

We urge the Trump Administration and the Congress to exempt Indian Country programs from any proposed budget cuts or sequestration to avoid a disproportionate impact on Pueblos and other tribes. Instead, we ask that you increase resources to historically under-funded programs like those dealing with health, education and housing. We also support a budgeting process that allocates Federal funds based on need rather than a specific formula. Such an approach would assure that each Pueblo and tribe, without regard to size or land area, would receive the funding support that it needs.

The Indian Health Care Improvement Act is one part of the Affordable Care Act, although it was developed independently. Any revision to the Affordable Care Act we ask and the trust responsibility requires that the Indian Health Care Improvement Act be protected and not repealed.

In addition to the Indian Health Care Improvement Act, the ACA also contains several other Indian-specific provisions that directly relate to Indian health including Medicare, Part B billing, tax exclusions for Indian health benefits, and payer of last resort provisions. These provisions are crucial in supporting access and delivery of quality health care services in Indian Country and should be protected all the time.

Pueblo leaders are also concerned about congressional proposals to sunset Medicaid expansion which has been critically important to Indian Health Service and tribally-run facilities. Medicaid expansion should be maintained in States that have chosen to participate and expanded to others within Indian Country.

Thank you, Mr. Chairman and members of the Committee, for the opportunity to testify on these complex and critical issues. We look forward to working with you and the new Administration on advancing these and other priorities for Pueblo Country.

[Phrase in native language.]

[The prepared statement of Mr. Torres follows:]

PREPARED STATEMENT OF HON. PAUL TORRES, CHAIRMAN, ALL PUEBLO COUNCIL OF GOVERNORS

Thank you Chairman Hoeven, Vice Chairman Udall, and members of the Committee for this opportunity to provide testimony on Identifying Indian Affairs priorities for the Trump Administration. The All Pueblo Council of Governors in New



Mexico thank you for your dedicated work as champions of Indian Country in the United States Senate.

My name is Paul Torres and I am the Chairman of the All Pueblo Council of Governors (APCG), which is comprised of tribal leaders (Governors) from the 19 New Mexico Pueblos and the Pueblo of Ysleta Del Sur in El Paso, Texas. I also serve as the Governor of the Isleta Pueblo. The APCG is the oldest Native American group of tribal leaders, constituted and formed in 1598. Collectively, the leadership of the APCG is respectful of the historic relationship between the Pueblos and the U.S. Government. In the spirit of cooperation, based on respect and full consideration of the sovereign status of tribes, the leadership of the Pueblos wishes to establish a meaningful relationship with the new Administration. In order to maintain trust and good will, the All Pueblo Council of Governors offer these statements of concern and policy considerations for the benefit of the Trump Administration.

### **Introduction**

The history of the Pueblos has its beginnings over 10,000 years ago. Many still occupy their traditional homelands, with their original governmental structures sound, their languages, ceremonies, and their belief systems still intact. They have a long and varied history dealing with foreign governments such as Spain and Mexico. Unlike other tribes in the United States, Pueblo land status is unique and falls under the 1848 Treaty of Guadalupe Hidalgo, 9 Stat. 922 (1948). The leadership of the All Pueblo Council of Governors stands committed to strengthening their relationship with the United States Government. We look forward to working with the new Administration to collectively tailor an approach that recognizes and acknowledges tribal sovereignty, assures a continuous government to government relationship, allows tribal economies to achieve their full economic potential, is respectful of traditional belief systems and draws on the intellectual capacity, talent and contributions of Pueblo People to the growth and development of this great country.

### **1. Government-to-Government Consultation**

The U.S. Constitution acknowledges that Indian Nations, Tribes, and Pueblos are separate distinct governments within our federalist system. The historic roots of the government-to-government relationship between the Pueblos and the United States Federal Government are symbolically embodied in the "Lincoln Canes." President Lincoln gifted the canes to the Pueblos in 1863 as a formal acknowledgement of their inherent right to self-governance. Passed down through the generations, the canes serve as revered symbols of tribal sovereignty, governing power, and authority over tribal land, natural resources, and residents.

Establishing a strong Federal Government-to-government relationship with all tribes was formalized in modern times by a number of Republican Presidents including President Nixon, who supported and signed off on major Native American legislation, and President Ronald Reagan through his Native American policy positions. Presidents George W. Bush and his father George H.W. Bush affirmed government-to-government consultation requirements.

Of critical importance are long-standing Executive Orders requiring regular and meaningful consultation between the Administration and all federally recognized tribes on matters that have tribal implications. The Executive Orders on consultation seek to ensure respect for and the strengthening of the tribal-federal relationship, and to reduce the imposition of unfunded federal mandates upon Indian tribes. These orders require federal agencies to meaningfully consult with Indian tribes prior to formulating policies that could affect tribal governments or tribal communities. These Executive Orders have provided the Pueblos opportunities for dialogue with federal agencies on issues that directly affect tribal communities and are pertinent to the Federal Government's trust responsibility—a legal and moral obligation by the Federal Government to tribes. While not perfect, the consultation process is key to forging a strong government-to-government relationship. We urge the Trump Administration to reaffirm and strengthen the practice of meaningful tribal consultation and communication long carried out by prior administrations and Presidents intent on recognizing and respecting the American Indian and Alaska Native people of America.

### **2. Federal Trust Responsibility—an Obligation to Indian Tribes**

The United States Constitution, treaties, federal statutes, executive orders, Supreme Court precedent, and other agreements set forth the federal government's recognition of Indian tribes as sovereign nations with inherent powers of self-governance over their communities and tribal members. They also establish the Federal Government's trust responsibility to protect the interests of Indian tribes and communities. The federal workforce and annual budgeting process help fulfill these unique obligations to Indian tribes by carrying out the federal government's commit-

ment to work with tribes on a government-to-government basis by ensuring the effective administration and funding of Indian Country programs.

#### *Federal Indian Budget*

The Trump Administration recently released its budget blueprint for Fiscal Year 2018 in which the President proposes to cut approximately \$54 billion in discretionary non-defense spending. These across-the-board cuts are alarming because the majority of programs serving Indian Country fall under the category of discretionary spending and are not exempted under the President's proposed plan. These programs exist across the Federal Government in agencies such as the Bureau of Indian Affairs, Indian Health Service, Department of Agriculture, Forest Service, and the Environmental Protection Agency, among many others. Budget cuts to these programs pose an immediate and unacceptable risk to the health, safety, and welfare of our people, lands, and natural resources. When combined with the fact that Indian tribes are more reliant on federal funds than most other communities, it becomes clear that any comprehensive cuts to the federal budget without specific carve-outs for Indian Country programs will necessarily have a disproportionate impact on tribes. We, therefore, urge the Trump Administration to exempt Indian Country programs from any proposed budget cuts to fulfill the federal government's trust obligations to Indian tribes.

Providing sufficient federal funding to meet the critical needs in Indian Country is a chronic and well-documented challenge. The Pueblos support a budgeting process that allocates federal funds based on need, rather than a specific formula. Such an approach would be responsive to the range of needs and internal capacities of federal agencies administering Indian programs. Needs-based federal funding also would provide agencies such as the Indian Health Service, Bureau of Indian Affairs, and the Bureau of Indian Education with the resources necessary to begin to recover from years of underfunding and program cuts.

#### *Federal Hiring Freeze and Proposed Workforce Reduction*

Endemic vacancies in the workforce pose a constant challenge to federal programs serving the complex needs of Indian Country. The Indian Health Service, in particular, struggles to recruit and retain qualified medical and administrative staff at its facilities, despite the continual increases in the number of Native patients using their services. The federal hiring freeze and proposed federal workforce reduction threaten to severely diminish the already strained ability of these programs to provide high quality services to our people—services that the Federal Government is obligated to provide as part of its treaty and trust responsibilities to Indian tribes. The Pueblos, therefore, urge the Trump Administration to adopt measures that ensure the federal hiring freeze and proposed federal workforce reduction will not apply to programs serving Indian tribes.

### **3. Infrastructure—a Requirement for Economic Advancement**

#### *Deficiencies in Infrastructure Limit Development and Housing Opportunities*

Many Pueblos are economically distressed rural communities. Infrastructure development is key to developing, diversifying, and sustaining tribal and rural economies. However, most tribal lands have conditions that require intense overhauling—roads are often unimproved, utilities are insufficient, and Internet and broadband barely exists. In addition, other types of infrastructure critical to creating vibrant tribal communities, including residential construction, are deficient or lacking. The result is a severe housing shortage on tribal lands.

#### *Limited Access to Capital Restricts Economic Development*

Tribal business transactions have become increasingly sophisticated and often involve non-native partners, investors, and lenders. However, limited access to capital and financing remains one of the most significant barriers to Pueblo economic development. Tribes across the country spend an incredible amount of time and resources defining, developing, and defending programs, but programs alone do not transform economies and communities the way economic investment does. It is important to create investment funds, resources, and models that are mutually advantageous to tribes and investors for economic advancement, stability and diversification. The opportunity for a decent income, a desirable job, a comfortable living and a chance to provide for family is a desire of all Americans.

#### *Build-Out of Digital Infrastructure Can Bridge the Urban-Rural Divide*

In this modern technological age, a great digital divide exists and needs to be filled in order for tribal governments to function, for schools to provide sound educational opportunities, and for tribal communities to maintain consistent communication beyond tribal boundaries by acquiring technological information, data and

research. Digital infrastructure allows remote access to high school, secondary and post-secondary education on-line courses, as well as medical care technology, which may otherwise be difficult, if not impossible, to access in many rural communities. Better access to digital infrastructure such as broadband, Internet services, and digital platforms, is also essential for business development, which will be key for economic participation and competition by the Pueblos.

*The Pueblos are Major Contributors to the Southwest Economy*

Pueblo governments and Pueblo owned business enterprises are collectively among the largest employers in the state, providing thousands of jobs in many rural areas of New Mexico. Most recent job figures put the number of jobs provided by tribal governments and enterprises at nearly 18,000 statewide in various industries. Non-Indians hold nearly 75 percent of these jobs. Some of the Pueblos have become regional economic engines. In the case of most tribal enterprises, these jobs stay in the community. Many tribal members also spend their money off reservation, pay federal taxes, and in many instances pay other taxes such as property and state income taxes. Pueblo members engaged in off-reservation commerce also pay gross receipts and other taxes. All this contributes to tribal, state and local economies. The Pueblos struggle with uniquely burdensome federal restrictions and regulations, poor infrastructure and other challenges that limit their economies from flourishing. Pueblo leadership, therefore, places a high priority on economic development and diversification and the creation of well-paying sustainable jobs for our people.

*Tax Policy*

Pueblos are functioning governments with a unique place in the federal legal system. This causes complications, not the least of which occur in the tax arena. Any legislation addressing tax reform should address these issues by clarifying how tribal governments will be treated, thereby eliminating the disparate treatment of tribal governments and reducing confusion.

*What the Pueblos Support*

In order to continue and enhance their contribution to the tribal, state and national economic landscape, the Pueblos support infrastructure and tax reform such as: funding for on-reservation infrastructure projects that promote sustainable job creation initiatives and that attract investment to Indian Country; strengthened housing for Pueblo communities provided under the Native American Housing and Self Determination Act of 1996; the provision of direct access to federal Low Income Housing Tax Credits; clarification of the treatment of Indian tribes and Pueblos as other governments for purposes of federal tax provisions such as tax-exempt bonds, pensions, charities, the child adoption tax credit and other provisions; and tax and infrastructure policies that encourage investment on tribal lands.

**4. Ensure Affordable, Accessible Quality Healthcare**

Native Americans have some of the worst health statistics in the country. The Indian Health Service (IHS) is the primary source of healthcare for Native Americans. However, the IHS has never been fully funded, and as a result, services are rationed, limited, inconsistent, unreliable and sometimes taken at “your own risk.” In addition, many tribes now pursue P.L. 93–638 contracting and/or compacting of services from IHS. This trend is an indicator that tribes believe healthcare can be better provided by other delivery mechanisms in addition to IHS. To promote and provide reliable and quality health system and services, it will be important for this Administration to develop policies that significantly improve the IHS budget and also allow for other forms of healthcare delivery to tribal communities.

*Preserve the Indian Health Care Improvement Act*

The Indian Health Care Improvement Act (IHCIA) provides the basic program, structure, management, and budget formulation for the Indian Health Service (IHS). The IHCIA was permanently enacted by cross reference in Section 10221 of the Affordable Care Act (ACA). Although the ACA was the legislative vehicle through which the IHCIA reauthorization was passed, the IHCIA predates and is independent from the ACA. Woven throughout the ACA are other provisions that directly pertain to Indian health, including Medicare Part B billing (Section 2902), tax exclusions for Indian health benefits (Section 9021), and payer of last resort provisions for Indian health programs (Section 2901). The IHCIA also allows IHS and tribal health programs to collect Medicare and Medicaid reimbursements for services provided to Native patients at non-IHS facilities. Because the IHS has been historically underfunded at only 43 percent of need, these third-party payments are a critical source of supplementary financial assistance for the delivery of Indian healthcare services. The Pueblos urge the Trump Administration to preserve the

IHCIA and protect Indian-specific provisions of the ACA in the course of any effort to repeal or amend the ACA.

*Maintain Medicaid Expansion to Protect Indian Health Benefits*

Pueblo leaders are concerned that a number of the ACA-related proposals would sunset Medicaid expansion, which has provided desperately needed funding to supplement woefully underfunded Indian healthcare providers, including IHS and tribally-run facilities. Due to funding limitations, many IHS facilities have had to reduce direct access to specialty care providers, intensive care, inpatient care, and emergency room services. Medicaid expansion and Marketplace coverage allow Native patients to access these services at private or non-IHS facilities at reduced cost. The Pueblos urge Congress to maintain increased patient access to critical services through Medicaid expansion.

Additional congressional proposals would cap Medicaid funding by moving to a block grant or per capita allocation formula rather than a Federal Medical Assistance Percentage (FMAP) formula, which could transfer or shift Medicaid funding responsibilities from the federal government to state Medicaid programs. Under FMAP, the federal government covers 100 percent of Medicaid costs for Medicaid-eligible services “received through” an IHS or tribal healthcare facility, including through the Purchased/Referred Care (PRC) system. The 100 percent FMAP program alleviates state costs associated with the provision of Medicaid services, helps tribes with service delivery and data collection management, and improves patient access to critical care.

The increase in reimbursements through Medicaid expansion has strengthened the internal capacity of our Pueblos to meet the healthcare needs of communities. For example, Santo Domingo Pueblo has expanded access to diabetes care, dental health programs, and behavioral health services, while also adding over thirty employees to the local workforce. Taos Pueblo also recently opened a residential substance abuse and mental health treatment center focused on the needs of Native youth, and the Pueblo of Jemez Comprehensive Health Center was designated as a full-service Federally Qualified Health Center (FQHC) capable of receiving special Medicare and Medicaid reimbursement. The Pueblos urge Congress to maintain Medicaid expansion in those states that have chosen to participate to protect Indian health benefits and advance the delivery of desperately needed services in Indian Country.

*Exempt the IHS from Federal Budget Sequestration*

Access to and the delivery of quality healthcare in Indian Country is further complicated by annual cuts to the IHS budget due to sequestration. All other critical healthcare agencies, such as Veterans Affairs, were exempt from the full effect of funding reductions during the federal budget sequestration of 2013—except for the IHS. The disruption in federal funding has resulted in a loss of over \$219 million and counting from the IHS budget. This translates into immediate and long-lasting negative health impacts through lost resources for primary and preventative healthcare services, staff recruitment and training, and other programs serving our communities. The Pueblos recommend that the IHS be given parity with other healthcare agencies through an exemption from sequestration, as well as any freezes of the federal budget.

*What the Pueblos Support*

The Pueblos understand that the new Administration has made it a priority to repeal and replace the ACA to revise its terms and improve affordability. However, they caution that repealing or amending the ACA might do unintentional but catastrophic harm to Indian healthcare delivery and access. To this end, the Pueblos respectfully request the Administration to exempt the Indian Health Care Improvement Act Reauthorization of 2010 from repeal efforts, preserve Indian-specific provisions of the ACA, consider Indian health care programs and services as mandatory spending programs, and exempt them from the potential return of sequestration to the federal budget, and to consider funding increases to Indian health programs and services and policy initiatives that provide alternatives for quality health care.

**5. Land Base, Water and Natural Resources—Important Tribal Assets**

*Continuation of the Land-into-Trust Program*

As sovereign tribal nations, the Pueblos exercise an inherent right to self-governance that is strengthened by our ancestral connections with the land. The ability of the federal government to take land into trust on behalf of tribes is, therefore, essential to our self-determination. Trust lands enable us to provide a homeland for our people as well as a base from which to offer essential governmental services,

such as, housing, education, healthcare, and economic development opportunities. Trust lands also facilitate the expression of our identity as Pueblo people by protecting the natural and cultural resources that form the bedrock of our traditional practices. We urge the new Administration to continue to support the land-into-trust program as a means of strengthening tribal governments, economies, and communities across our great country.

#### *Wise Stewardship of Natural Resources*

The stewardship of land, minerals, water and other natural resources is key to both the economic well-being of Pueblo people and to their cultural survival. Every day the Pueblos strive to balance these interests.

The vast majority of federal lands are carved out of the ancestral homelands of Indian tribes. The historical and spiritual connection of tribes to federal lands was never extinguished. Courts acknowledge that Indian tribes retain rights to hunt, fish, and gather on federal lands. Federal laws acknowledge the continued right of tribes to access federal lands to pray, conduct ceremonies, and gather medicinal plants. Federal laws and executive orders also require federal land managers to consult with tribal governments prior to taking action that would affect the integrity of federal lands. For example, the Pueblo of Laguna is working with the Department of Agriculture and the Forest Service as a Cooperating Agency in the preparation of an Environmental Impact Statement for the Cibola National Forest Plan Revision. Such beneficial partnerships better ensure that tribal interests are taken into consideration in the development of the federal land resource and management plans.

The Pueblos ask the Trump Administration to partner with them in strengthening these rights and access to ancestral homelands and sacred places located on federal lands. If the Administration considers transferring lands out of federal control, we respectfully ask that the Pueblos be provided the right of first refusal to ancestral homelands and sacred places. Pueblos and other tribes are proven stewards and managers of their lands and forests. Protection of and access to natural resources is important not only to the Pueblos but to all Americans.

#### *Affirming Tribal Water Rights and Water Quality*

The Pueblos have been engaged in major court battles to secure tribal water rights as provided under federal law. The federal government must remain committed to supporting tribal water claims. Pueblo water rights are not mere claims on paper, but reflect a long term, historic Pueblo presence, cultural identity and willingness and desire to live on their traditional, ancestral lands. The settlement of these rights also provides stability and economic benefits to surrounding communities. For these reasons, water, land and air must remain protected from contamination that results from mining and extraction activity including uranium mining, oil and gas production and transportation. All such activity that would affect tribal interests should be advanced only with tribal consultation and consent.

#### *Preservation of Bears Ears National Monument*

In keeping with our traditional role as stewards of the land, the All Pueblo Council of Governors has worked closely with federal, state, and local governments to protect important landscapes and cultural sites in the southwest, including the area now known as the Bears Ears National Monument in Utah. Our ancestral ties to the Bears Ears cultural landscape extend to time immemorial and can be traced through the ancient roads, dwellings, petroglyphs, and ceremonial features that continue to enrich the region today. However, these sites are under constant threat by erosion, vandalism, looting, and indiscriminate damage through off-road vehicle use, as well as the general degradation of wildlife and plant habitats that are significant to our traditional practices. We urge the Trump Administration to preserve the designation of Bears Ears as a National Monument to support the permanent, long-term protection of the land and its invaluable cultural and natural resources.

#### *Protecting Tribal Cultural Patrimony*

Disturbing and unsettling occurrences at national and international auction houses as well as in the art world have led to outrage and condemnation by many tribes throughout the United States, including the Pueblos. These occurrences include the illegal trafficking in and the selling of Native American cultural property—items considered sacred, sacrosanct, used in worship, and should never to be given away or sold. These items are not works of art; they are integral parts of a Pueblo's living cultural identity and spiritual practices.

We remain grateful to the leadership of the Senate Indian Affairs Committee for your support of the PROTECT Patrimony Resolution, H. Con. Res. 122 (Dec. 2016). The Resolution puts in place greater deterrents to prevent the theft and illegal traf-

ficking of our sacred items, both domestically and abroad, and promotes the protection of our identities as Pueblo People by better ensuring that items of cultural patrimony remain within our communities. However, a significant amount of work remains to be done on this important issue. We look forward to working with you and the Trump Administration on strengthening the implementation of the Native American Graves Protection and Repatriation Act (NAGPRA), and advancing the Safeguard Tribal Objectives of Patrimony Act (STOP Act) during the 115th Congress.

#### What the Pueblos Support

In the Pueblo worldview, we are stewards of the earth's natural resources—land, water, air, and minerals. The Pueblos support policy and legislation that provide protection of natural resources, includes funding to support management of these resources, and policy that requires Federal-Tribal collaboration when natural resources and cultural properties are affected in any way. The Pueblos support a policy that requires in-depth collaborative efforts to arrive at mutual outcomes where natural resources on or near tribal lands could be destroyed or diminished. In addition, the Pueblos seek support for pending federal legislation that would clarify existing laws and condemn the trafficking of sacred items. The Pueblo leadership asks the new Administration to support Congressional proposals to protect cultural patrimony.

### **6. Pueblo Destiny Lies in the Control of Education**

#### *High Standards Are Critical*

Pueblo leaders wish to create a highly skilled, well-educated, workforce within their respective tribal communities. With a pool of qualified workers, the Pueblos believe they will be able to attract business and economic development possibilities, create well paying job opportunities, and assure that tribal members enjoy a prosperous future that comes with being well educated.

#### *Education System*

The Pueblos of New Mexico have always supported sound educational programs that comply with state and federal accountability standards. We emphasize the importance of high quality instruction, effective professional teacher development and the development of appropriate, culturally sensitive curriculum, including Native language retention and instruction. In addition, Pueblo leaders support comprehensive oversight of the flow of funds and the implementation of policies that effectuate meaningful educational change. It is important to foster the advancement of higher education, but also to consider re-introducing vocational education, which in many school districts has been eliminated or severely limited. Vocational education can provide skills that contribute to employment opportunities and sustainable incomes. In addition, Science, Technology, Engineering and Mathematics (S.T.E.M.) curriculums must be incorporated into tribal school systems.

#### *Protecting and Preserving Native Languages*

The Pueblo worldview is contained in their languages. In addition to maintaining tribal life ways, the Pueblos have established various programs and methods in order to retain and preserve what are considered some of the most ancient and distinct languages in America. Some Pueblo languages are so unique they are not spoken anywhere else in the world. Students in language immersion programs demonstrate substantial improvement in their academic performance and testing. Data shows that Native students excel in S.T.E.M related subjects largely attributable to their language skill set. Native languages offer a unique thought process and a way to interpret the world and its interactions.

#### What the Pueblos Support

The Pueblo leadership supports policies that provide educational opportunities and resources in order to begin cultivating the next generation of Native students who are able to achieve academic success, perform proficiently on standardized tests, and graduate. A number of Pueblos are taking over the operation of Bureau of Indian Education (BIE) schools located on tribal lands. Operating and maintaining schools requires considerable resources. It is important that the new Administration provide adequate funding to support tribal schools and initiatives like S.T.E.M. The Pueblo leaders also urge the new Administration to realize the value of Native languages and support funding for programs that prevent the further loss of language, traditions, and culture.

## **7. Appointment of Native Americans to Key Trump Administration Positions**

Pueblo governments and their communities can be severely affected in many different ways by the actions of the U.S. government through policy or the enactment of federal law. Therefore, it is extremely important that the voice of the 20 Pueblos be heard and considered, especially with regard to appointments to key positions within the Administration that will affect the Tribes, Pueblos and Indian Nations in this country. Equally important is the appointment of Native Americans to key positions within all federal agencies across the Administration. The 20 Pueblos respectfully ask that the President seriously consider Native American professionals for appointment to the following key positions:

- Special Advisor to the President on Native American Affairs, The White House
- Deputy Director for Tribal Affairs in the White House Office of Intergovernmental Affairs and Public Engagement
- Deputy Secretary, Department of the Interior (DOI)
- Assistant Secretary for Indian Affairs, DOI
- Director, Bureau of Indian Education, DOI
- Solicitor, Office of the Solicitor, DOI
- Director, Indian Health Service, HHS
- Director, Administration for Native Americans, HHS

We also respectfully request that the Trump Administration maintain “Office of Tribal Relations”/“Native American Programs” (OTR) officials in each department/agency of the government to help facilitate access by tribal government leaders to the federal programs designed to benefit tribal, state and local governments. Agencies that have OTRs include, among others, USDA, Justice, Commerce, Veterans Affairs, the EPA, Treasury, Health and Human Services, Energy, Labor and Homeland Security. As with the above listed positions, many qualified Native Americans currently serve or could serve in these positions.

Finally, because federal laws and the development of federal jurisprudence have a disproportionate impact on the daily lives of Indian Country residents, we ask that the Administration make it a priority to strongly consider appointing Native Americans to serve as judges in the federal court system.

### **Conclusion**

Federally recognized tribal governments are and have for centuries been acknowledged as distinct political and sovereign entities recognized in the U.S. Constitution, treaties, federal laws and regulations, and federal court decisions. Prior to contact with other nations, Indian tribes exercised powers of self-government over their territory, residents, and visitors. Their sovereignty pre-dates the Constitution and is derived from the fact that they owned all the land that is now the United States, including the state of New Mexico. The U.S. Constitution acknowledges the sovereign status of Indian tribes in the Treaty Clause, in the 14th Amendment as “Indians not taxed,” and in the Commerce Clause. Separate sovereign tribal groups are a vital part of the fabric of this great nation. Working together, with a common understanding of history, with mutual respect and recognition of the obligations of the relationship forged by President Lincoln, as symbolized by the Lincoln Canes, and with an optimistic view of the future, the Pueblos look forward to successfully working with the Trump administration.

Senator BARRASSO. Thank you all for your testimony.

Senator Hoeven is still voting and I understand Senator McCain is going to start with the questions.

### **STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA**

Senator McCAIN. Thank you, Mr. Chairman.

Thank you all for being here. Congratulations to you, Mr. Secretary. Despite your poor record in the United States Navy, we hope you will improve in your new job. Thank you.

Secretary ZINKE. I look forward to it, sir.

Senator McCAIN. Briefly, Mr. Secretary, I want to ask you a couple questions about the BIE school system.

I think by any measurement they are failing. Facts are stubborn things as President Reagan used to say. Half of BIE students do not graduate high school; BIE test scores trail by double digits compared to Native students who attend non-BIE schools. Many schools struggle with teacher retention and some schools are unfit for human habitation.

Let me mention a couple examples to you. One school spent \$3.5 million on a new roof but the roof continued to leak and classrooms later developed mold. Another school spent \$1.5 million to build a garage for their school bus. The school bus did not fit.

In Arizona alone, most of our 19 BIE schools have not been inspected in almost ten years. Now the BIE and BIA say they have inspected all the schools. BIE does not keep track of the money they give to tribally-operated schools.

One school wired \$1.7 million to an offshore account in a phishing scam and was only able to recover \$500,000. Another school illegally loaned out \$1.2 million to a non-Indian school district and we are now spending an estimated \$15,000 per student per year, higher than the national average as you know.

It is difficult to justify providing BIA with more funding now that GAO had deemed them a high risk agency. I would argue that if there is one thing we owe our Native Americans, it is to give their children a decent education. Statistic after statistic shows we are not doing that.

I believe one of the options that ought to be examined is charter schools. Give parents a choice. Allow charter schools to have an opportunity to provide them with an option. I am not saying that is the answer but I am saying the status quo is not acceptable.

It is a solemn treaty obligation we made that we would provide health and education to our Native Americans as they signed treaties that gave their land and their rights. I would hope you would give this issue some priority. It is not a new issue but it seems to me, from my 30 years experience on this Committee, that the situation is not getting any better.

In the view of many, I think Senator Udall would agree with me, that the situation is getting worse. I hope you will take this as a priority and maybe give us a report on the fiscal conditions of the BIE schools in my home State for openers.

I thank you, Mr. Chairman. I want to say congratulations, Mr. Secretary. I am sure you will do an outstanding job. We look forward to working with you.

May I have a quick response?

Secretary ZINKE. Yes, sir. I appreciate the question.

The GAO report, as you know, is damning. I think there are two sides to education. There is the infrastructure. I first asked, what our backlog is with infrastructure. Somewhere around \$300 million to \$400 million is our backlog on schools across Indian Country.

The backlog on infrastructure is only part of the story, as you know. It is hard to gain economic development when you do not have a good school. As tribes look at opportunities, if they are going to bring in an opportunity in gaming, there is a myriad of opportunity, but it is hard to recruit talent if you do not have a school, a hospital or clinic that has functioning infrastructure.



As you point out, infrastructure is one side of it. The other side is delivery of the education. Back to sovereignty, I think the tribes should have the latitude to decide for themselves what method they choose to deliver their education.

There have been advancements in rural country on distance learning and computer-aided learning, the supplement in there. Drugs are a big issue in our schools. The kids are in the classroom excited. For some kids, the standard course of instruction does not work or does not reach them.

Having some flexibility given back to the tribes on what delivery method is appropriate to the culture I think is a giant step forward.

Senator MCCAIN. Thank you, Mr. Secretary. I hope we would encourage the Native Americans who exercise tribal sovereignty to make additional choices as to how they can best educate their students and convey those desires to you.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator McCain.

Senator Udall?

Senator UDALL. Thank you, Senator Barrasso.

Senator McCain, you are right. We must do better with BIE students. We are not doing nearly the kind of effort we need to. I think what I hear from Secretary Zinke is he has a commitment to do that.

Secretary Zinke, you and your agency are responsible for upholding the Federal Government's trust responsibilities. Speaking of trust responsibility, I would like to follow up on an issue I personally raised to you during our meeting in January, and also in a letter I sent to you shortly after you were sworn in last week.

Chaco Culture National Historic Park in Northwest New Mexico and its surrounding area holds enormous significance to the tribes in that area. However, Chaco is also in the middle of one of the most productive oil and gas regions in the Country.

The expanded development in the area is causing great public and tribal concern. As I noted in our meeting, former DOI Deputy Secretary Mike Connor and I visited Chaco in 2015 to witness the situation and to discuss next steps.

Following that visit, Deputy Secretary Connor announced a unique, I think first of its kind, joint effort between BLM and BIA to work collaboratively to increase meaningful consultation with tribal communities as part of the ongoing resource management plan revision.

Given the importance of this area to tribal heritage, it is essential to have tribal input in the future planning for this area. As a result, it is equally important for BLM and BIA to work collaboratively.

Will you ensure this ongoing joint effort between BIA and BLM continues so that we strike a balance between adequately protecting Chaco and allowing for responsible development and, above all, ensure that tribes are intimately involved in the process thus minimizing the potential for future disagreement?

Secretary ZINKE. Thank you for the question.

The heart of it is consultation which was mentioned before. Consultation has been inconsistent at best. Across Interior, we have to

make sure we have a policy in place so that consultation takes place.

The definition of consultation between our different departments, in some cases, we have not worked well between BLM or Fish and Wildlife or the National Park Service. It has been inconsistent with our consultation process.

I will commit to working together and continue that but we also have to continue to improve what the consultation is so there is an expectation among peers as you enter the consultation processes, making sure we have set the right and left flank and we know what the expectation is so the consultations are meaningful within the process.

Senator UDALL. Thank you very much for that answer.

As you know, after some of the incidents at the Dakota access pipeline, President Obama asked for consultation nationwide with tribes. We had a session in Albuquerque. As a result of all those nationwide sessions, a report was issued in January 2017 entitled Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions.

That report set forth important guidance and recommendations regarding the Federal Government's commitment to engage tribes on a government-to-government basis. Will you consider and take up the recommendations made in that report?

Secretary ZINKE. I have that report on my desk and that is going to be my nightly reading for a while. I think it is important that we all agree. This will also take consultation to make sure we come up with a document that meets expectations on all sides.

Those recommendations, no doubt, will be incorporated into what we believe will be our product and we will take it into consideration. Also, that document was limited in scope and who got to look at it.

On the issues of sovereignty and consultation, a challenge is that not every tribe has the same aspirations and goals. We have to work through that in a prudent and timely fashion to get a product that is acceptable to the Nations.

Senator UDALL. I appreciate that answer.

Chairman Torres, as you know, President Trump has announced a hiring freeze. Could you talk a little bit in the limited time left as to how you think that hiring freeze could impact your Pueblo and the other Pueblos in New Mexico that you represent as chairman?

Mr. TORRES. Thank you for that question, Mr. Vice Chairman.

The hiring freeze that has been proposed is going to be very detrimental not only to the Isleta Pueblo but to the other Pueblos. I will give you an example.

The tribal leaders, not only from the Pueblos but the Nation, come to D.C. requesting or complaining about a lot of things that do not happen, that the BIA does not do, or other programs do not do. For example, Isleta Pueblo took in 90,000 acres of land to trust last year. It took us 18 years to get that land into trust. The ball was in the hands of the BIA but it took 18 years to get it done. We finally got it done last year. The Secretary of the Interior went to Isleta and celebrated with us. It was a great day. That is just one example.

BIA does not have enough employees to get work done in the first place. If we lose approximately 4 percent of the employees in any Federal agency due to retirement or whatever, in a matter of just a few years, you are not going to have very many employees left. For sure nothing will get done at that time.

It is serious enough right now. It is not good to have a freeze on the programs that affect the Indian tribes. It is not going to be a good thing for us.

Senator UDALL. I hope we exempt the Interior Department and these BIA activities.

Mr. TORRES. Yes.

Senator UDALL. Thank you for that answer.

Mr. Chairman, back to you.

The CHAIRMAN. [Presiding.] Thank you, Vice Chairman.

I think we will go to three-minute rounds with the Secretary because I understand that you have to leave. Now they are telling me you have to leave at 3:35 p.m. I am going to try to stretch them to 3:40 p.m. per original agreement. I will start and we will go to three minute rounds to get as many people as we can.

The first question I would like to begin with, and I have two, is at IHS, I think there is so much more we can do with strong leadership and really make a meaningful difference in Indian Country in terms of taking care of people and their health.

IHS is turning back money at the same time when there are tremendous needs out there in terms of health care on the reservation.

What can we do to work together to make sure we get really strong leadership in Indian health services and really go to work to do a better job of delivering health care services across Indian Country?

Secretary ZINKE. A great question and I agree with you. In my experience in Montana, I had not visited a lot of tribes outside of our State, but I think Indian health care is at rock bottom in some places.

Some of it is inconsistency; some is the more rural you become, there are less choices. Even the physicians do not have the flexibility when they see a patient. They sent them out. They had to go through layers of bureaucracy for approval. It gets worse as you go out into some of the more rural areas.

As we all know, the Obamacare refit, repeal, reform, whatever we are going to call it, affects Indian health. Like you, we saw the first version out of the House. I have an appointment to talk to the Secretary on it to make sure that we do not forget the other side of it.

The other side of it is those of us in Congress saw how it was done the last time. I think maybe we can learn some lessons going forward in taking into consideration how it affects the tribes and their health care.

Hopefully, we can work together to make sure how the choices are delivered, again sovereignty should mean something. If the tribes are in a position to do more and have more choice, then great. It is really up to the tribes and they should have a stronger voice on how their services should be delivered.

Some of it is infrastructure too. I go back to it is hard to recruit good physicians, good physician assistants if you do not have a community that has a good school. It is also hard to develop some of the technology that we are witnessing in remote care if you do not have the right pipes, right services and broadband to deliver that.

There is a lot in there but I think we have to work together as far as the branches of government to make sure the tribes are not forgotten.

The CHAIRMAN. Again, I would just ask that you work with us on finding strong leadership at IHS. As you said, I think rightly so, we work to make sure that we empower tribes to really work with IHS, cut through the regulatory red tape and make sure that service is being delivered as well as possible.

Obviously right now, I am emphasizing health care but I think that extends across a whole range of opportunities whether it is making sure children are protected, economic development, or trying to work with the BIA to reduce crime on the reservation and make people safer.

I think in all those areas, it is both self empowerment and then cutting down on some of the bureaucratic difficulties and delays. I think that is where your leadership and your desire to reform and reorganize can really make a big difference, Mr. Secretary.

Secretary ZINKE. Thank you, sir.

The CHAIRMAN. With that, I will turn to Senator Cantwell.

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

Senator CANTWELL. Thank you, Mr. Chairman.

Secretary Zinke, welcome.

Staying on health care for a second, when we had sequestration cuts, for a while the Indian Health Service benefits were not excluded like Medicaid and Medicare. Several members of this Committee, Senator Murkowski, myself and others, raised the warning flag until people understood that those were sacrosanct.

Now, when you look at this budget proposal, if you do the math, there could be a 13 percent cut in Indian Country if you take what the news accounts are. That would be like three times what we faced in sequestration.

I hear what you are saying. You are going to go over and talk to people. How can we make sure that we are not going to see these draconian cuts in health care?

Secretary ZINKE. Some of it is why the costs and what can we do? Outside of budget, what can we do on the regulation side to help us save? What can we do to provide more flexibility? What can we do to provide more choice to some of the tribes?

The goal is the same. The goal is affordable, reliable access to health care. Not all of it is budget as was pointed out. In some places, money is being given back or not spent in the right way.

Some of it is risk on giving the tribes more ability to make the choices and accept that perhaps the way they spend it is not going to be exactly the way Washington or the Secretary thinks because one size does not fit all.

Senator CANTWELL. On that, I look at Medicaid and Medicare just as I look at the trust responsibility. We have to live up to that responsibility. I hope you will be able to convince those at OMB and the White House that is what trust responsibility actually means. I wish you success on that.

If I could, I wanted to also ask you about BAER funding which is burned area emergency funds. We had a great deal of the Colville Reservation burned. Part of the available funds through you is to help replant these tribal areas.

I want to see if we can get you to commit to working with us on that and getting some help for the Colville Tribe?

Secretary ZINKE. Absolutely. I can also share my commitment to wildfire as far as removing dead and dying trees. We had talked about this before. A lot of catastrophic fires in the West have been because we have a lot of dead and dying trees that are burning there.

We have to spend money making sure that our forests are healthy up front so we do not have to spend the catastrophic money, \$2 billion or so, fighting forest fires recently in a year. In such cases where we have had these catastrophic events by fire, it is better to spend the money up front in prevention where we can. Then we do have to replant and reclamation across the board has been an issue.

Senator CANTWELL. I think you will find many people unified here on the Committee on what we should do on fire. I think we have to convince some other people on the other side of the Capitol that it is an important to deal with.

Thank you very much for your commitment to work with the Colville.

The CHAIRMAN. Senator Moran, I would ask you to go two minutes if you would, because I am trying to get everyone in before the Secretary leaves.

**STATEMENT OF HON. JERRY MORAN,  
U.S. SENATOR FROM KANSAS**

Senator MORAN. Mr. Secretary, thank you very much and the tribal leaders who have joined us here today.

The shortened version of my questions are first, let me thank you for sponsoring in the House the Tribal Labor Sovereignty Act. A number of the leaders here in their testimony have expressed their support. I am humbled by that.

I would ask you to commit that you will work with us if that legislation passes the House and Senate to see it is supported by the Administration and becomes law.

Secretary ZINKE. Absolutely, sir, I was glad to sponsor it and I look forward to it passing.

Senator MORAN. Thank you, very much.

The last Administration emphasized a focus on restoring tribal homelands through the land into trust process. Acquiring land in trust facilitates self determination. Will this Administration have a similar emphasis?

Secretary ZINKE. I think you have to look case by case at what lands are appropriate and do we have the right assets as you bring

land into trust? What does that mean in the long term? Some areas are better in fee; some areas are better managed.

As far as moving forward, there are going to be a lot of applications as there are now to bring it back. We have a process. I will work with you to make sure the process is transparent, clear and at the end of the day, results in an end product that is where we all want to be.

Senator MORAN. Mr. Secretary, Haskell Indian Nation's university is one of two four-year institutions operated by the Bureau of Education. It is located in Lawrence, Kansas.

Our tribal colleges need significant attention. I would highlight this issue for you and invite you visit with me at Haskell University. I want to forewarn and foretell you that I will be knocking on your door as we look for ways to innovatively help tribal education certainly at this level and this particular university for the betterment of Indian people across the Nation.

Secretary ZINKE. I look forward to it.

Senator MORAN. Thank you, Mr. Secretary.

The CHAIRMAN. Senator Tester.

Senator TESTER. Thank you, Mr. Chairman. I will make this quick.

Congratulations, Secretary Zinke. You are in a position now that you can help the Little Shell of Montana receive recognition. Can I get your commitment that you will work hard to make that happen?

Secretary ZINKE. My position on the Little Shell has been supportive of it. We have a process. Now, as Secretary, I have to make sure that process is fair, transparent and not unduly influenced. I have been following your bill very, very closely and I hope the House accepts similar and I hope the Congress does it.

Senator TESTER. I am one who thinks it should be the Department, to be honest with you, because you will de-politicize it. We will politicize it. If you can just show it a little extra attention, that is all it takes.

Secretary ZINKE. I plan that all recognition goes through as smoothly and expeditiously as absolutely possible.

Senator TESTER. The Little Shell is going to be glad to hear that.

Consultation, it is not just with the Department of the Interior. In fact, I could argue the Department of the Interior probably does a better job than any other agency. It still needs improvement but it does a good job.

I just need your commitment that you will talk to the other Secretaries you serve with and get a letter off to them explaining what consultation is so that they understand whether it is the Department of State or Department of Agriculture, or any other one, that consultation is critically important when it comes to Indian Country. Most of these folks do not even know what consultation is. You do. They do not.

Secretary ZINKE. Senator, I think that is an excellent idea. It will come up very shortly in order, I am sure.

Senator TESTER. Last question is on water compacts. There is a ton of Indian water compacts in the West. We have two in Montana. We have the Blackfeet that have already been authorized. I have the Salish Kootenai that hopefully will get authorized. The

big problem is money. Authorization is nice. Without money, it cannot happen. Do you have any ideas on how to fund those water projects?

Secretary ZINKE. The finished compact is a treaty obligation.

Senator TESTER. Yes.

Secretary ZINKE. I think we should make sure that we emphasize that as a treaty obligation. It is not a nice to have; it is honoring a treaty.

Senator TESTER. Last thing, Senator Baucus and Senator Bingaman, Senator Udall's predecessor, both worked on using a fund called the Reclamation Fund over which you have some control. It has, I believe, north of \$10 million in it now. That would do a lot of water projects pending out there that have to be done because it is a treaty obligation. Hopefully, you will look into that.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Daines.

Senator DAINES. Mr. Secretary, as a member of the U.S. House, you, Senator Tester and I worked together and enacted the historic Blackfoot Water Settlement Act into law.

My question is, as you work to inform the Administration's budget request including fiscal year 2018, can I get your commitment to work with Congress to ensure the Blackfeet Water Rights Settlement receives the full funding it needs to be implemented?

Secretary ZINKE. I will work with you. I would say we have the greatest chance and opportunity because we have both sides in the middle. I think if we work together, we can get things done.

Senator DAINES. I would say we have them surrounded, Mr. Secretary.

I want to shift and talk about coal jobs. We talk a lot about coal jobs but we cannot let these important issues go stale. Sometimes by repeating it over and over again, we can get calloused and forget these are very important issues.

For the Crow people, coal means its livelihood. It means another meal on the table for struggling Native families. It is a lifeline in a community where the unemployment rate, as we head from Chairman Not Afraid, is somewhere between 25 and 47 percent. Coal jobs have a face, a beating heart. They are the face and the heart of the Crow Nation.

Secretary Zinke, can I get your commitment as Secretary of the Interior to work with other Federal agencies to ensure that coal export terminal permits are issued in a timely manner to protect and create jobs for the Crow people?

Today, they have to send their coal to Canada. We cannot even send it through a U.S. port

Secretary ZINKE. Senator, it is enormously important, not only to the Crow but to the Navajo, Hopi and those resource-dependent tribes. My commitment to you is I will work to make sure that sovereignty means something.

It is up to the tribe. If the tribe wants to export their product, whatever that is, we should not stand in the way. On land treaties, we need to honor that treaty. My steadfast commitment is to support sovereignty so we get out of the way if that is the direction the tribe wants to go.

Senator DAINES. Thank you, Mr. Secretary.

The CHAIRMAN. I am going to ask that Senator Murkowski be allowed to put something in the record before we go to the next question.

**STATEMENT OF HON. LISA MURKOWSKI,  
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Then I will come right to you, Senator Franken.

Senator FRANKEN. Fine.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I would just ask that my statement be included as part of the record, including my comments on ANCSA contaminated lands.

Thank you, Mr. Chairman.

[The prepared statement of Senator Murkowski follows:]

PREPARED STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Chairman Hoeven, and Vice Chairman Udall, thank you for your leadership in bringing the topic of priorities for the Trump Administration to the Indian Affairs Committee. Certainly we are all aware of the government-to-government and trust responsibilities that exist between the Federal Government and Tribes. This relationship is far too important to not understand and I have been saying that we need to make sure all nominees and incoming staff with the new administration must understand it.

In fact, I have been telling all of my constituents that we should not assume that they know anything and it all of our jobs to educate each and every one on our needs, our issues, our opportunities, and our challenges.

One person I do believe has a good understanding of many of the issues in Indian Country is the newly confirmed Secretary of Interior, Ryan Zinke. Secretary Zinke, I thank you for making this hearing today your first Congressional hearing since confirmed. I think that speaks a lot on your commitment to Indian Country and it goes to show that what you said about focusing on the challenges in Indian Country during your nomination process was not just rhetoric, but you meant it.

When it comes to the Indian Affairs Committee and how we can work with the new administration, we start at the basics. What does it mean for the Federal Government to uphold its trust responsibility to tribes and have a true government-to-government relationship? In your testimony you mention, regardless of political party, this is our duty from Maine to Alaska. And I thank you for mentioning Alaska.

Alaska is home to 229 federally recognized tribes. You can imagine the importance of the trust responsibilities and relationship with the Federal Government for me and my constituents. What it means is meaningful consultation and true relationships in decisionmaking. It means when an agency performs the duty of consultation they are not simply "checking the box". They are building relationships, ensuring tribes have a seat at the table, and that sovereignty is being recognized.

One opportunity for tribes to work with the Bureau of Indian Affairs and other federal agencies is the annual BIA Providers Conference in Alaska. This conference usually takes place in Anchorage and last year was its 26th year. Usually attended by about 1,500 Alaskans, this conference give tribal governments and village leaders the opportunity to meet with Federal representatives to learn about programs and how to implement them. More often than not, it is the only opportunity for tribes to meet face-to-face with Federal employees.

I strongly urge you, Secretary Zinke, to continue the conference. But one piece of advice is I would like to see more direction taken from the Tribes on what is included in the agenda and hear from them on how the conference can be the best use of both the tribe's and agency's time. It takes a lot of cost, and effort for individuals to fly all the way to Anchorage from their remote communities, so I want to make sure it is worthwhile.

Building off of that, I would like to mention briefly a few programs that DOI oversees which are extremely important to me and my constituents. One is the Small and Needy Tribes funding. This funding is critical for dozens of our small and remote tribes across Alaska. It gives them the ability to run important tribal programs, and I would ask you to work with me to ensure they receive the maximum benefit of this funding.



We have been working with DOI on the development of Tribal Courts in PL280 states. In FY16 we put forward \$10 million towards this effort. This was a huge priority of mine and was the first time we have ever directed funding for Tribal Courts in this way. I believe this is a direct investment into the health, well-being, and safety in our villages. At the department level there was much room for improvement in the rolling out the funding and plan. We must continue to improve in this area and push for outreach and consultation with the tribes as we progress. I do believe we are making progress and I ask you commit to working with me on that as we move towards a sustainable, long lasting system for tribes.

A related subject I would ask the Trump Administration to work closely with me and Alaskans on is public safety. There are too many instances of young men, women, and children living in constant fear, in times they are not even able to leave their homes, because they do not have adequate public safety in their area. This is far too often the case in rural Alaska. I urge you, Secretary Zinke to work with other members of the Cabinet, and the members of this committee, to find ways where the federal government can make improvements.

I would ask you to make a commitment at the Department to once again take a leadership role to facilitate the cleanup of the ANCSA contaminated lands. Right now there are still over 600 contaminated sites on land that was conveyed to Alaska Native Corporations and also additional sites on land pending conveyance. These sites were contaminated under the ownership or responsibility of the Federal Government, and then transferred to Native ownership. They pose a risk to humans, animals, and the environment. I ask that you work with the Alaska delegation and Alaska Native leaders to solve this overdue issue.

There are certainly so many areas I would like you and the DOI to partner with us in Alaska. There are significant ways the DOI can help create jobs and economic activity in Alaska. A few are supporting the implantation of the Native American Tourism and Improving Visitor Experience Act (NATIVE Act), hiring local Alaska Natives to fill position in the National Park Service and Fish and Wildlife Service, or contracting directly with Tribes at the local level whenever possible.

There are also larger endeavors where there is significant opportunity for Indian Country with larger infrastructure and tax reforms. We must make certain that opportunities for American Indians and Alaska Natives are part of any infrastructure or tax legislation that is put forward.

As you can tell, we have much to work on together. And I thank all the witnesses, especially Secretary Zinke for taking the time to look through the lenses of opportunity. This committee is one where we are known to work together, in a bi-partisan way, and I look forward to continuing that tradition.

Thank you to all members of the panel, and thank you again to Secretary Zinke for joining us for this oversight hearing today.

The CHAIRMAN. Senator Franken.

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

Senator FRANKEN. Mr. Secretary, thanks for being here so early in your term. Vice Chairman Anderson, thank you for your friendship and all the work the Shakopee does.

I want to talk about economic development because when we talk about education, health care, business, infrastructure, and law enforcement, it is circular.

If you do not have the schools, if the kids do not have housing and are sharing housing with another family, witnessing trauma, that affects the educational system. If they do not have housing, you are not going to get good teachers or good doctors.

My thing is economic development. I would like to ask you to work with me to fund the Tribal Energy Loan Guarantee Program. I think we talked about this when you came to my office. This was included in the Energy Policy Act of 2005 but was never funded.

This program would allow the Energy Department to guarantee up to 90 percent of the principal and interest of a loan issued to an Indian tribe for energy development. By leveraging these Fed-

eral resources, this program would encourage borrowers to partner with the private sector to develop energy projects with tribes on Indian land.

I know this program falls outside the purview of the Interior Department but could I ask you to commit to working with me to get this program funded? We are talking about not a whole bunch of money but something that will leverage energy projects in Indian Country?

Secretary ZINKE. Senator, I would love to work with you on that because you are spot on. It is energy. In some cases, that energy results in a whole variety but it is economic development and without an economy, nothing else really matters.

You have to have the core, an economy moving in whatever direction that tribe wants. You have to have an economy where people have jobs and a future. Schools and infrastructure are all tied into that.

Those loan programs that can provide a path for energy in whatever form, wherever you are geographically, to leverage what you have I think is an important part of it.

Senator FRANKEN. I look forward to working with you, Mr. Secretary.

The CHAIRMAN. Senator Lankford.

Senator LANKFORD. Thank you, Mr. Chairman.

Thank all of you for being here.

Secretary Zinke, I have a bunch of questions I am going to try to run through real quick.

We need help in making sure things and unique situations like in the Osage Nation in Oklahoma that they can use oil and gas production to take advantage of their resources. They have a very unique setting there. That has been an ongoing issue for a very long time for that tribe, just to be able to use their own resources.

They work through BIA on that. That is something I would like to be able to have your help and engagement on.

Secretary ZINKE. You will, sir. Mr. Chairman, I look forward, if invited back, to continue to dialogue and also with each of you, away from the cameras. In a dialogue, we can sit down. If it helps Indian Nations and involves sovereignty and self-determination, you have my commitment.

Senator LANKFORD. I would tell you the person sitting to your left and the Chickasaw Nation can give you a set of great ideas about some of the things that have happened when they have used their sovereignty and been able to develop business relationships. I am sure these other folks can also. I know very well what is happening in the Chickasaw Nation on that.

There is a situation uniquely BIA-related and Interior-related as well. That is moving land into trust. It is very inconsistent from place to place. In the northeast side of my State, it is three to five years on historic tribal lands to be able to move land into trust.

We just had land in the northwest side of my State that is non-historic tribal lands that was just moved into trust to set up for a casino there, which in Oklahoma will be the 132nd casino in our State, was just moved into land in that area in less than two years.

Secretary ZINKE. Senator Dole talked to me about that.

Senator LANKFORD. For the folks in the northeast part of the State that wait three to five years on historic tribal lands compared to the northwest side of the State that has non-historic lands, to do it in less than two years has been surprising to us.

To try to figure out the equity of it and the process, we have asked a lot of questions just on basic process issues. How is the decision made? What is the process decision? BIA leadership has come to this Committee that I have talked to directly about it. They have said it will take years. They have used terms like, it is rare, it is unusual, but it actually moved faster than a lot of other areas in the State have.

For us, we are trying to figure out process. If you can help us get a clear delineation, that would be very helpful for all of our States and all of our regions.

Secretary ZINKE. I agree. I asked the same question this morning in the first meeting after talking to Senator Dole. There is great inconsistency. To date, the process is unclear to me. I will get to the bottom of it.

Senator LANKFORD. Thank you.

The CHAIRMAN. Senator Cortez Masto.

Mr. Secretary, we have two left, two minutes apiece. Can you do it?

Secretary ZINKE. I am already late, sir.

The CHAIRMAN. I guess you will have to submit your questions for the record. I am sorry.

Senator CORTEZ MASTO. I will do that.

Secretary ZINKE. I apologize. I will come back. I promise.

The CHAIRMAN. Let us do this. Will you commit to come back and visit our Committee again so they have the opportunity to ask their questions?

Secretary ZINKE. Just request and I will come right back.

The CHAIRMAN. All right, very good. That is what we will do.

Senator CORTEZ MASTO. Thank you, Mr. Secretary.

The CHAIRMAN. With that, we will move to questions for the other members of the panel.

Senator CORTEZ MASTO. I am sorry you were not able to get your questions in. We will have the Secretary back. I do apologize. Are there questions you might have for other members of the panel?

**STATEMENT OF HON. CATHERINE CORTEZ MASTO,  
U.S. SENATOR FROM NEVADA**

Senator CORTEZ MASTO. Thank you, gentlemen, for being here.

The concerns you have discussed before us today are similar to concerns I also hear from our tribal community members in Nevada. I so appreciate you being here and look forward to working with you in addressing a number of these issues.

Thank you very much.

The CHAIRMAN. Senator Heitkamp.

**STATEMENT OF HON. HEIDI HEITKAMP,  
U.S. SENATOR FROM NORTH DAKOTA**

Senator HEITKAMP. Thank you, Mr. Chairman and Vice Chairman Udall.

I was going to run through the whole litany of issues that we have in Indian Country in my State, which I know is shared by so many of you. But the main question I wanted to ask Secretary Zinke is, are you going to fight for Indian Country in the budget process?

Because all of this discussion and all of these issues that we talk about, if we fall back further on financing and meeting our treaty obligations, not much of it really matters. We are not going to build better schools. We are not going to have better health care. We are not going to have more and stronger law enforcement.

We need a Secretary who is going to fight for Indian Country. I hope that all of the witnesses here will share my commitment to holding BIA's and the Department of the Interior's feet to the fire, HHS's feet to the fire, the Bureau of Indian Education's feet to the fire, and not leave Native Americans and Indian Country behind in this budget process. We have been left behind far too often.

This is our opportunity and if we do not take it to stand together and fight for resources, we are going to fall further and further behind. I would invite anyone to comment on that but I feel very strongly that the main job of the Secretary of the Interior, as it relates to Indian Country, is to be the advocate in fighting for resources for Indian Country.

Mr. ANDERSON. Thank you, Senator Heitkamp.

I have a comment or two. Hopefully I can keep it organized in my head. If you were here earlier for my testimony, those were at the top of the list of asks that we will ask the Secretary to hold fast on. We expect his strong leadership on all of those issues.

I cannot help but tie together all of the concerns we have shared here today with a lot of the concerns you all have. I know the Senator from Arizona, Mr. McCain, came in long enough to express his concerns on education.

Hopefully, it was not the highly educated Indians administrating that money or going overseas into private accounts. We take that very seriously. A lot of the processes you talk about, the consultations we are talking about, the status quo is what I am hearing does not work.

By that, I mean not consulting and not understanding the underfunding, the responsibilities not being met. When not understanding comes to bear, I think you will find you can change that status quo by honoring those treaties and doing the things that need to be done to keep those schools alive.

My father went to boarding schools. My father also went to Haskell. I heard that school mentioned here today. My sister attended a school with poor conditions that Senator Franken helped generously. That was in the northern part of our State.

The one thing I consistently hear is meaningful consultation for the particular tribe affected by Federal acts, meaningful consultation between the departments that affect those programs or what project they are working on.

I could explain to you a lot of the reasons why these trust applications sit on the shelf for so long. You have tribes that can barely afford to fund their schools and IHS. Well, you wait long enough and it sits long enough on a desk, your environmental assessment

expired. It is as simple as that. Now you have to come up with a lot of money and so forth.

This was all intertwined in the administrative level of the Office of Realty, an extension of the BIA that takes land into trust. That type of technical work comes at a high cost. You have people in the trust process applying standards that just quite possibly are not there which has happened to us. We have a lot of experience in that.

We are very fortunate that we have a lot of educated people who can bring us up to speed on that and understand that process. Right now, we have a realtor office solicitor who is doubling up on the title efforts.

Every one of you who bought homes or property goes through transfer of right-of-ways or covenants previously held that you need to maintain. They need to come back, this individual needs another reaffirmation of that so legally it is covered but they need a legal reaffirmation that so the Federal Government is not stuck with the bill of say a barrel full of pollution that needs to be cleaned up.

I do not know why the Federal Government would be held accountable for that but there are some standard of application or understanding of some type of application that quite possibly we have never heard of. That is where the consultation process comes in.

As far as school funding and absconding with funds, that is something if we had process and control and exercised our sovereignty, we would make sure that our children were educated. We are in the process of doing that now. We are very fortunate.

The one thing we do not want to have happen is to have that success supersede the responsibility the Federal Government has in providing some of those services. I have not heard about IHS dollars being turned back.

In our particular case, IHS wanted a full accounting of all our tribal enterprises, all of our tribal finances to reconcile a shortage of IHS funds. That is the money you see back. We refused because quite frankly, that is their accounting that they are giving back, not ours. We do very well to supplement that money.

If we can, we will redirect what we have. If we cannot use it, there are other tribes that can. We do not want to be relieving anybody's responsibility or put our nose into who gets what or who owes what.

We are constantly trying to mend fences that are not at this particular level. Quite frankly, I hope we can continue to do that as we are very fortunate.

Thank you.

Mr. KEEL. Mr. Chairman, with all due respect, I have to leave. I have to catch a plane.

The CHAIRMAN. Mr. Keel, just a minute before you go. Do any of the Senators have questions for Mr. Keel before he leaves?

The CHAIRMAN. Senator Lankford.

Senator LANKFORD. I had a quick one if I could. We can chat later so you do not miss your plane because I know exactly what that feels like.

Mr. KEEL. Yes, sir.

Senator LANKFORD. The Chickasaw Nation has been the gold standard for getting a chance to find ways to be able to do enterprises and projects, things like health care, that are a tremendous example for tribes around the Country.

You have a lot you can contribute. I am sorry you have not had the opportunity to be able to contribute a lot of those things.

Could you highlight some of the ways you have taken on some of the responsibility because you all have taken your tribal sovereignty very seriously, to be able to take on responsibility and authority and be able to take it on for the sake of the people of the Chickasaw Nation? Health care and other enterprises, it would be helpful to get on the record.

Mr. KEEL. Thank you, Senator.

We believe in the Chickasaw Nation that the best social program is a good job. If we can create jobs for our people and have people be able to contribute to taking care of their families and their well being, then it makes the community better.

We believe in being good community members, in fact, if we can help the community to develop resources to encourage not just creating menial jobs, but jobs that will be long lasting and productive.

Health care is one area we compacted with the Federal Government in 1994. We felt that the direct service component of the Indian Health Service was not serving our people. We undertook self governance compacts to overhaul it. We took it on. We made it based on the family practice model so that our people would have a relationship with their family doctor.

We took our gaming revenues and entered a joint venture compact where we constructed a new hospital, state of the art, created about 300 additional jobs. Those are good paying jobs.

Through those efforts, we have been able to establish clinics that will provide a lot of our employees who work in some of our businesses who are not Native American and do not have access to the Indian Health Service clinics. But we have been able to develop what we call a sovereignty clinic where those folks who have insurance can come to a clinic, get health care and we charge it to their insurance. That way at least they have access to quality health care. Those clinics are tribal business development opportunities. That is one example.

Another example is we have taken on the role of making sure we diversify our economies. We have a chocolate factory, the Bedre Chocolate Factory located on Interstate 35 in Pauls Valley or actually in Davis, Oklahoma now. It is the finest chocolate in the world. Obviously, we cannot compete with Brachs or Hershey, for instance.

Senator LANKFORD. Yet.

Mr. KEEL. Yet. But we do have some contracts with some of the upscale companies, Neiman Marcus and some of those folks. We believe we can get there.

Another opportunity is a metal fabrication plant in southern Oklahoma. We purchased that from Siemens Corporation. It was a bankrupt deal. We took that and created about 110 jobs. Once again, it is an opportunity to create jobs for our people and the surrounding communities. The communities then improve.

Tourism is a mainstay in Oklahoma, the economy. We believe that we can help with that. I spoke with the Secretary about the Chickasaw National Recreation Area. We are working in partnership with them to create jobs. We created some trails. We built a bridge from our cultural center to the park so that we can access those trails.

Those are opportunities we believe we have resources we can contribute to and co-manage with the Federal Government. There are a number of opportunities. We believe innovation is the key to survival.

Senator LANKFORD. Are there any roadblocks that are out there from the Federal Government right now to any of those projects as far as developing business enterprises?

Mr. KEEL. There are a lot of Federal regulations that hinder us. As you heard about taking land into trust, some of those things are time consuming but we have been able to work with our Federal partners in finding ways to get around it.

The difference between a bureaucrat and a leader is a bureaucrat will tell you here are the rules, we cannot help you. A leader will say, here are the rules; let us find a way to work together to make improvement in our lives. We are trying to find innovative ways to improve our economies.

Senator LANKFORD. Thank you.

Mr. KEEL. Thank you, Senator.

The CHAIRMAN. Mr. Keel, before you leave, I have a question for you.

You mentioned briefly that you have been successful in building health care centers and clinics. Give us some advice here. How can we replicate that in other places? It is not just building them and staffing them and making them work. How do we do more of that?

Mr. KEEL. I could take a long time. I would be happy to come and visit with you and bring some of our experts. We believe we have developed some expertise in developing these clinics that we can export. We believe we can help even working with the Indian Health Service and partnering to develop some of these things.

The staffing comes from some of the staff that was in local communities, the doctors and nurses. We put them on contracts initially and eventually fold them into the tribal governmental services and they become tribal employees through our Department of Commerce.

The CHAIRMAN. We do want to follow up with you both in terms of your ideas on how other tribes could maybe replicate some of the things you have done but also your thoughts on how we can perhaps make IHS more effective in delivering services. It seems to me your ideas in both regards would be helpful. I will have my staff reach out to you.

Mr. KEEL. I will look forward to that. Thank you very much.

The CHAIRMAN. Thank you for being here today.

Also, thank you for your service as an Army Ranger. We had a Navy Seal. It only seems fair that we balance it out with an Army Ranger, right?

Mr. KEEL. Thank you. I appreciate that.

The CHAIRMAN. Thank you.

Mr. NOT AFRAID. also an Army Ranger?

Mr. NOT AFRAID. Marine Corps.

The CHAIRMAN. Marine Corps. Of course, we have to have the Marine Corps, Semper Fi. Thank you for your service as well and for being here.

Mr. Anderson, thank you for making sure we had an opportunity to recognize that. I have a question for you.

You have been very successful in economic development at Shakopee. What thoughts do you have, what recommendations, what can be replicated in other places along those lines? What top three recommendations in terms of economic development do you have for other tribes?

Mr. ANDERSON. Business management and obviously health care. We have taken claims and preventative care. If we could figure out a way to extrapolate preventative care into current costs, that can show that tradeoff.

In other words, we have clinics that we develop. We take the claim money that would otherwise have been spent going to another clinic, apply it to the clinic we are running offsetting that cost.

I think of casino management or business management education. There is health care and just being a good neighbor, as Mr. Keel said. That helps the local businesses have confidence in being able to work with and assist you in building that neighborhood economy, that regional economy, if you will.

Those are just three things I can think of offhand but I know given the time, I could easily come up with half a dozen or a dozen more. We deal with this stuff all the time.

We are currently working with the city next to us, one of the two, to develop a water treatment facility that they will pay for over 25 years and we will provide them with treated water. That offsets our treatment facility costs not quite 50 percent but they pay it over 25 years and they pay for the water.

Should they not be able to do that without a waiver of sovereignty, then we will build one as we need one anyway but they will have to continue with their infrastructure plans, their future annexations and how they raise revenue to build their own water treatment facility. We are currently negotiating one of those agreements.

The CHAIRMAN. Give me a rough idea of your territory.

Mr. ANDERSON. We are south of Minneapolis about 30 miles. When I grew up there were deer wells and corn fields. Nobody really knew we were there until our former chairman, our first chairman, Norman Crooks, exercised our sovereignty by taking the diseased elm trees out of Minneapolis and brought them out to our reservation where we burned them.

The question was, given ordinances and other things, were we able to do that. We did that for a price, of course. The challenge went nowhere.

Looking at it now, we have a four-lane coming off a nice interstate, five or six miles away. We are considered inside of that natural area now, not urban rural. It has grown.

The CHAIRMAN. Changed a lot?

Mr. ANDERSON. Yes.

The CHAIRMAN. Vice Chairman Udall.



Senator UDALL. Thank you, Mr. Chairman.

I had meant to ask Secretary Zinke this question, but I am going to follow up with Chairman Torres. This was a question on the Bears Ears which was done as a national monument, as you know, by President Obama near the end of his Administration. I know some of Secretary Zinke's staff remains.

I just wanted to let them know this is a very serious issue. I have talked with a number of my members both on and off the Committee about how important this is. It was remarkable to me that 20 tribes with cultural ties to this area in southern Utah came together.

There were sometimes conflicting interests but they all worked with the Administration and worked with the shareholders to make sure things were resolved and it was ready to move forward with the monument. Now we have a monument.

Chairman Torres, I thought I would ask you because I know specifically that the group of Pueblos that belongs to your council all united and sent a resolution. I would ask, can you describe how important the Bears Ears National Monument designation is to the Pueblos of New Mexico?

Mr. TORRES. Thank you, Senator Udall.

The Bears Ears National Monument is very important to all the Pueblos. In that whole region in the Four Corners area, I have been there. In fact, we held an All Pueblo Council meeting there at the Crow Canyon Museum.

All of those archaeologists and previous archaeologists there have worked in all those areas since the 1920s. It is all Pueblo. Our ancestors lived there. We believe the spirits are still there. In Pueblo Country, our tradition, our culture and our language is priority in everything that we do every day.

The protection of not only Bears Ears but thousands of cultural sites there in that area is very important. Daily, they are being vandalized. They are not protected at all.

I made a trip to D.C. with the archeologists from the Crow Canyon; they asked me to come with them to address that, to address getting them protected. I tried to help them but there is a lot to be done in that whole region as far as protection of all of those sites, including Chaco Canyon and Mesa Verde. All of those areas are all important and where our ancestors came from.

Senator UDALL. Thank you, Chairman Torres.

The CHAIRMAN. I noticed our two other panelists were nodding. Do you have knowledge of this area and do you have anything to say on that in terms of Bears Ears or you just knew that existed?

Mr. ANDERSON. Just knew.

The CHAIRMAN. Thank you.

I think it is a great example of tribes coming together because they saw the kind of damage that Chairman Torres said was happening to cultural resources and said we need to do something.

I hope that Secretary Zinke takes very seriously that effort by the tribes and by all the stakeholders to get behind that designation.

Chairman Torres, I wanted to ask you this. We have raised the issue several times about BIE schools and there were various ques-

tions. A number of Pueblos in New Mexico have recently taken over the operation of BIE schools located on tribal lands.

What are some of the challenges that the Pueblos have faced in providing their tribal members with access to high quality and culturally appropriate educational services? How do Pueblos feel about the current reorganization efforts?

Mr. TORRES. I will tell you a little bit about Isleta. We took over our school last year. Secretary Jewell came down for that event. What was happening at Isleta, it was a BIE school for over 100 years and when it started getting really bad, we had nine principals in ten years at that school.

When we, the tribal council and the governor, decided to make that a tribally-controlled school, we went through the process. It was not easy. We got it done, so we are able to incorporate our culture, our tradition and our language into the curriculum of the school. We are able to hire new teachers and set up a school board, everything that will make the school better.

It is not running as smoothly as it should right now. There are ups and downs but we expected that. It cannot run perfectly right off the bat. There are challenges being addressed. It is in the best interest of our kids because that is what it is about, our kids. It is not about the politicians or the parents. It is about the kids and about their education. That is what we thought of when we did that.

There are a lot of challenges to doing what we did with the BIE. There were many roadblocks that were set up that we had to deal with just taking over the school. The communication part, it took us months just to get the password so that the computers that were there in the classrooms could be used.

I made many calls to the Department of Education here in D.C. We tried to get everything addressed smoothly but it did not work that way. There were a lot of problems.

We have been trying to help other Pueblos on that same track of taking over their schools. We are helping them as far as telling them what we ran into and how to go about doing certain things. It was difficult.

I think the reorganization of the BIE now, the way it is being set up, I am curious to see if it is going to work. They have one department for the BIE-run schools and another department for tribally-controlled schools. The rest of it, I do not know but I hope that it works because our kids need the quality education they deserve.

The biggest problem Isleta faces now is convincing the parents to bring their kids back to the school because during the time when the schools was not going good, parents took their kids out and took them to other schools.

Now that the school is set up better and everything is different, the biggest challenge is to talk the parents into bringing the kids back. It is not going to happen overnight. It is going to be a job to do that.

Senator UDALL. Thank you for your answer. I really appreciate that. Thank you, Chairman Hoeven, for allowing me one more question.

This is on health care for all of you. It has been mentioned several times about health care being a top and essential priority. What impact would the Administration's proposed across-the-board budget gets have on tribal health care and the Indian Health Service? What would be the impact if those cuts were combined with proposed cuts to programs like Medicaid which brings in a notable amount of third party billing revenue to the Indian Health Service? Who would like to jump in on that one?

Mr. NOT AFRAID. First of all, it would be devastating but as Crow, we have a plan if the whole world does not seek to accommodate, the solution would be allow the Crow Tribe to propose and with those governing dollars because obviously what we have seen is a lot of overhead costs in the medical field or in the department.

I, as a veteran, utilize the VA systems which are a little more adequate, better service. When I go back to the IHS, they live by a rule called life or limbs. That being stated, they would only refer you out for cause of either severing a limb or it is life threatening.

First of all, there is just poor quality care. It blows me away to hear that \$130 million had to be turned back to Treasury when there are different regions that are not supported sufficiently financially.

Therefore, as we have done a study, we are seeing that if you eliminate that department and gave the Crow Tribe its share, we could do enormous amounts of things for our people not only within health care but prevention which would alleviate the stress of long term issues with individuals.

Therefore, with ACA, we would hate to see the tribes' identity as well as the treaty being violated because the Crow people, the Crow Nation, was never captured. The Crow Nation, on the other hand, had always worked diligently with the government and its peers to obtain not only its livelihood but the sector it lives in now.

To just put us in the same pot as we all recognize as tribal leaders, we are unique in our own ways, yet we all share the common deficiencies. We all share the common crimes, the common issues across the board, yet when Interior thinks they know what is best for each individual tribe and pass some sort of policy or bylaw governing, they also forget each tribe is not only unique but previous congressional laws omit us from those types of bylaws and policies.

Again, that would be a discussion for myself and Zinke to iron out as to which laws and policies is he going to follow, what he is mandated under. I believe we can have a good working relationship but at the same time, if he does not understand history, he ain't going to get very far because again, when it comes to economic development, we have over billions and billions of resources that need to be developed, yet with the hindrance of the bureaucracy because the left hand does not know what the right hand is doing in the Interior, that keeps the Crow Tribe incapable of development.

It is a paper process that put tribal lands under the identity of public land. Therefore, it deters development. I just wanted to share that. It goes hand in hand because economics also complements health care.

Senator UDALL. Thank you.

Mr. ANDERSON. All I can say is that understanding is very prevalent for our tribe through the \$18 million annually that we donate.

A lot of that goes into aiding in the health care industry or through economic development loans and so forth for other tribes. That kind of help is only needed through those deficiencies.

We recognize that we are very, very fortunate to be able to afford a lot of things. That IHS money pays for a lot of things. A lot of urban Indians and non-members of our tribe are serviced with that money.

The restrictions placed on that money limit that. I think there would be more use of our clinics if that was not in place. We see that and the biggest thing that comes to my mind is because we are very fortunate, we still have the issues.

We have drug issues. One more issue before you get to rehabilitation or correction of drug use, if you will, if you are going to prevent, educate and learn about drugs and keep your kids off drugs and get them healthy, is aftercare.

All of the things that precede that would be the foundation for just health care on its own. That is where you start. You assess your health, how you are doing now, what you need to do to fix that.

If you have those abuse issues, which are very prevalent in Indian Country, that is just one more chip at the foundation. That is the way we can see it or all I can comment on for now.

Senator UDALL. Chairman Torres.

Mr. TORRES. I would like to share with you an example of the Pueblo of Laguna where the Medicaid expansion has helped the Pueblo of Laguna improve access to care systems on or near their medical home communities.

Through Medicaid expansion, the Pueblo of Laguna enrolled approximately 768 plus members into Medicaid expansion. Increased funding from Medicaid allowed for purchase of referred care, expansion and stabilization. It now allows the Indian Health Service to expand accessibility, specialty care beyond general Indian health services.

For example, patients can now and will improve their quality of life by receiving services such as retina surgery, knee replacements, hip replacements and so on. Medicaid expansion has improved the quality, efficiency and effectiveness for medical care within Native American communities.

Offering education on Medicaid increases the knowledge of tribal members in the efforts of expansion for a robust and active enrollment process. Adults age 19 to 64 are eligible to apply for Medicaid. That is just one of the examples Laguna Pueblo had given me comments about as far as their health care.

Senator UDALL. Thank you.

Thank you, Mr. Chairman. Thank you for your courtesies. I really appreciate it. This was a great panel today.

The CHAIRMAN. Thank you, Mr. Not Afraid, Mr. Anderson and Mr. Torres for being here. We appreciate it so much.

If there are no further questions, members may also submit written follow-up questions for the record. The hearing record will be open for two weeks.

Again, I want to thank all of you witnesses. Thank you for being here. We appreciate it very much.

With that, this hearing is concluded.

[Whereupon, at 4:18 p.m., the Committee was adjourned.]



## A P P E N D I X

PREPARED STATEMENT OF ERVIN CHAVEZ, SCHOOL BOARD PRESIDENT/FAYE BLUEEYES, ADMINISTRATIVE SERVICES DIRECTOR, DZILTH-NA-O-DITH-HLE COMMUNITY GRANT SCHOOL (DCGS)

Thank you for the opportunity to submit a statement for the hearing record on behalf of the Dziłth-Na-O-Dith-Hle Community Grant School (DCGS) on the Navajo Reservation in Bloomfield, New Mexico. During this Committee's March 8, 2017, hearing, Senator McCain, Vice Chairman Udall, and Secretary Zinke expressed a desire to see improvement in the Bureau of Indian Education (BIE)-funded school system. At DCGS, we believe that all of our students are capable of achieving academic success and we work tirelessly to create the conditions that make that possible.

DCGS has operated as a "grant" school in the BIE school system pursuant to the Tribally Controlled Schools Act (PL 100-297) since July 1, 2005. We believe that we have an important perspective to share on both the challenges grant schools face and the success that can be achieved when local decisionmaking is respected, when language and culture are an integral part of the curriculum and when families are fully invested in their children's success. In fact, despite the challenges we face, students at DCGS are meeting or exceeding our peer-schools in the BIE and New Mexico systems, and sometimes eclipsing national scores. We want a bright future for our children and we offer this statement to Congress and the Administration in a spirit of shared purpose.

DCGS, which has been in continuous service since 1968, operates a K-8 educational program and a dormitory program for students in grades 1-12, serving around 250 students in both programs. We are a tribally controlled grant school that is located approximately 170 miles northwest of Albuquerque. We are primarily funded through appropriations received from the BIE, and pass-through funding from the Department of Education. Our all-Navajo Board operates DCGS through a Grant issued by the BIE under the Tribally Controlled Schools Act.

The Mission of DCGS is to grow, motivate, teach, and challenge our students to reach their fullest potential. To this end, we offer a rigorous academic curriculum that is rooted in Navajo language and culture. At DCGS we also believe in starting early. We are also one of 44 BIE-funded schools to operate a Family and Child Education (FACE) program. Through this program we provide home visits and home education to serve children ages 0-5 and their parents. Parents are their children's first teachers. By strengthening family literacy and enhancing school readiness, we are promoting lifelong learning for our students and their families. Pairing the FACE program with our strong K-8 curriculum means that we are able to build a strong cultural and linguistic foundation from which our students and their parents can succeed.

Academic success can be measured in many ways. We want our students to be well-rounded, critical thinkers and who are prepared to achieve great things once they leave DCGS. One component of this is ensuring that they are proficient in core, foundational skills that will empower them to gain new knowledge. The Partnership for Assessment of Readiness for College and Careers (PARCC) tests are designed to test these skills and we believe that PARCC proficiency is an important indicator of success. As you can see from our attached SY 2014-2015 PARCC test results, the average DCGS student score is often higher than the average student score throughout the BIE-funded school system and in the state of New Mexico. In some instances, the average DCGS student score even exceeds the national average.

DCGS shares your concerns about the BIE's performance and accountability. Too often, our ability to achieve and demonstrate academic success comes in spite of, rather than as a result of, BIE's involvement. For instance, in SY 2015-2016, the BIE purchased the PARCC tests from the vendor on DCGS's behalf, rather than allowing DCGS to maintain a direct relationship with the vendor. Unfortunately, through a record-keeping problem, the scores from several former DCGS students who having been attending other schools were incorrectly attributed to DCGS. To no avail

DCGS has repeatedly asked the BIE to work with the vendor to correct this error and properly attribute the PARCC scores. Had we been allowed to maintain a direct relationship with the vendor, we believe that this error would have been corrected quickly. Instead, months later, we are still waiting. Because we are a small school, this error has had a dramatic effect on our average scores for SY 2015–2016—skewing an important marker we use to measure our success in providing a quality education for our students. We highlight this only to illustrate some of the problems that can arise when the BIE inserts themselves into the day-to-day decisions that tribal schools are already managing successfully.

DCGS is also working with a difficult situation at the BIE where, the new Education Resource Centers that were the result of the BIE Reorganization have still not been staffed up properly and are not able to quickly respond to inquiries or requests for assistance. Going forward, we ask that the focus of the BIE be on supporting and partnering with tribal schools as we work to provide the best possible education for our students.

Another challenge we have been working to overcome is the state of our facilities and the level of federal funding we receive for basic everyday operations. It has been painful for those of us who drive to work at DCGS past state-funded public schools that are still in decent condition, but are being knocked down to build brand new schools. For years, we would have gladly traded our own crumbling buildings for any of these soon-to-be demolished schools. However, Congress has given us hope these last three years. Not only has Congress, for the first time fully funded Tribal Grant Support Costs (the Contract Support Costs for tribal grant schools) but Congress has also increased funding for other essential priorities such as the Indian School Equalization Program (ISEP) (our core funding source), Facilities Operation and Facilities Maintenance, and Replacement School Construction. In 2016, we were overjoyed to be selected as among the BIE-funded schools eligible for school construction funding. With planning funding in hand, we are now meeting weekly with a team from the Bureau of Indian Affairs Albuquerque Facilities and Construction Center and the firm we selected, Rock Gap Engineering, a 100 percent Native American owned engineering and construction firm. We are engaged in each stage of the planning process and are making sure that there is an accounting for each and every penny of our hard won planning funds. We anticipate that the planning phase will be complete in June of this year and look forward to the design phase beginning shortly after.

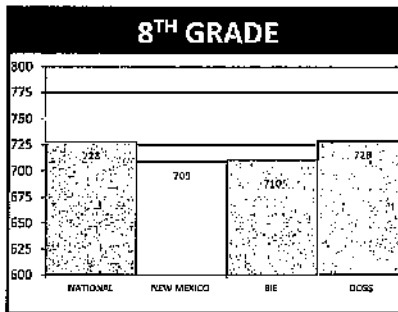
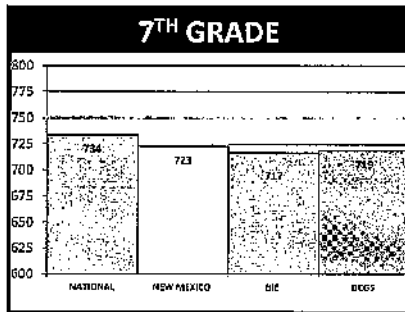
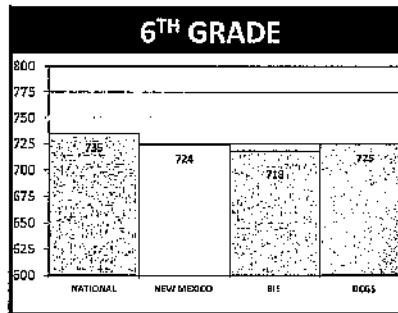
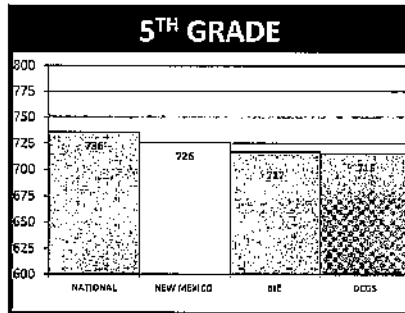
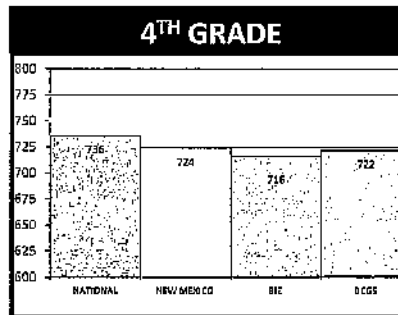
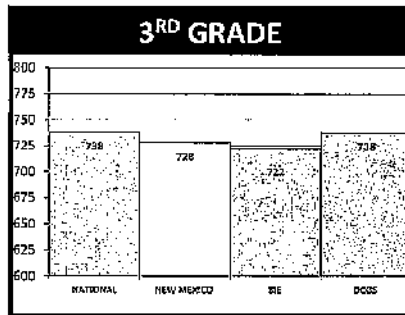
What is difficult for us to bear is that just as Congress has more fully recognized the real need that tribal schools have for equitable funding and safe facilities, there have also been discussions about bringing in for-profit charter schools and making federal funding more “portable”. As tribally controlled grant schools in the BIE school system, we operate in many ways like charter schools: we have greater leeway than the BIE-run schools to manage our school and design innovative ways to engage our students. If we are granted even greater freedom on curriculum design and more equitable facilities, we believe that we could help our students achieve even more. However, we are concerned that if opportunities for for-profit charter schools are expanded, we do not think that Congress would appropriate any more funds for the BIE school system. Rather, any new for-profit charter schools that are built would rob tribal grant schools in the BIE system of the opportunity for being repaired or replaced for the very first time in decades. We have already watched from the sidelines while Congress spent over a billion dollars to replace aging facilities in the Department of Defense-funded school system while BIE-funded schools were left behind. These past few years have been our very first opportunity to try to catch up. We hope you will work with us to ensure that these vital gains are not siphoned off just as we are beginning to invest in fundamental improvements that will create healthy and productive learning environments for our students.

The Mission of DCGS is to grow, motivate, teach, and challenge our students to reach their fullest potential. Everything we do as a school, we do with this mission in mind. We believe that our model of local decisionmaking, high standards, respect for language and culture, and close engagement with family and community can be replicated. Our students are our future and we submit these comments in a spirit of shared purpose. As both Congress and the Administration continue to exercise oversight over Indian education, please consider us a resource.



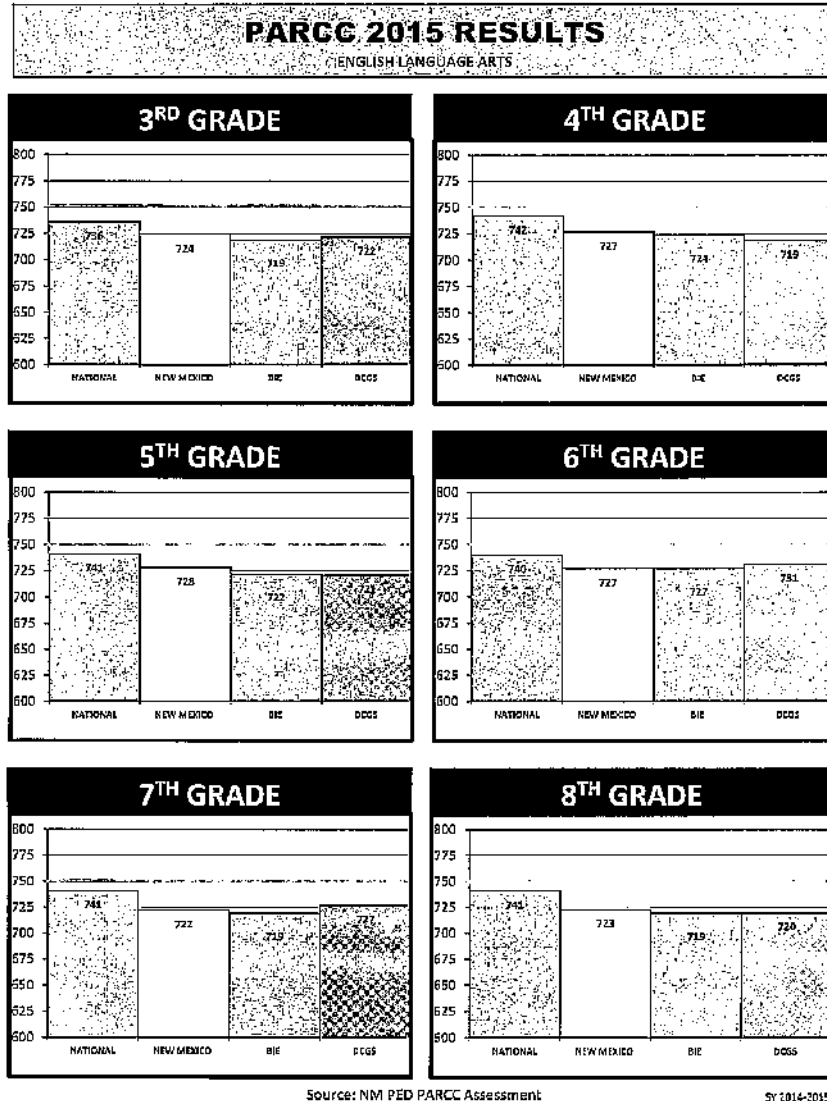
## PARCC 2015 RESULTS

### MATHEMATICS



Source: NM PED PARCC Assessment

SY 2014-2015



PREPARED STATEMENT OF LORENZO BATES, SPEAKER OF THE 23RD NAVAJO NATION COUNCIL

Y't'ééh Chairman Hoeven, Vice-Chairman Udall, and Members of the Committee. My name is LoRenzo Bates and I currently serve as the Speaker of the 23rd Navajo Nation Council, which serves as the governing body of the Navajo Nation. Thank you for the opportunity to submit testimony to the committee on a matter of great significance to the Navajo Nation on behalf of our 110 chapters and the over 300,000 enrolled members of our tribe.

In December, several of my Council colleagues and I had the opportunity to present our priorities during the listening session hosted by the Trump Administration's Native American transition team. During that time, I also had the honor of

meeting with several key Congressional members to present a document outlining the priorities of the Navajo Nation.

Now that the Trump Administration is in office and the Senate has confirmed Honorable Ryan Zinke to serve as the Secretary of the Interior, we feel it is crucial to once again present these priorities that have been developed based on input and recommendations from the Navajo people, communities, and leadership.

However, before I provide a broad overview of the Navajo Nation's priorities, I would like to address a very important issue that has developed in recent months that requires the attention of all who hold the best interests of Indian tribes in their highest regard. As you may be aware, the owners of Navajo Generating Station (NGS) power plant recently voted to end their ownership of the plant at the end of 2019. This has created uncertainty for the Navajo Nation moving forward.

The power plant not only provides approximately one third of the Navajo Nation's annual budget every year and hundreds of well-paying jobs for many Navajo people, but it also is the sole purchaser of coal from the Kayenta Mine which is owned by the Navajo Nation and Hopi Tribe. Royalties from the coal sold to NGS provides additional revenue and jobs for the Navajo Nation as well.

Acting Deputy Secretary of the Interior James E. Cason took the initiative of bringing all of the stakeholders together on March 1, 2017 to discuss potential options. The stakeholders agreed to work collectively to develop possible solutions including identifying possible new owners and operators of NGS, and purchasers of the coal from Kayenta Mine. The next meeting is scheduled to take place in April where stakeholders will provide updates on their progress.

Moving forward, it is very important that the Senate Committee on Indian Affairs is aware of the circumstances involving Navajo Generating Station and Kayenta Mine. We ask that your committee as well as your Congressional offices monitor this situation and we ask for your support moving forward.

Below are the common priorities developed by the three branches of government. The listing provides a broad overview and of these priorities and we are more than willing to discuss these issues with you in detail.

### **Common Priorities of the Navajo Nation Government**

#### *Infrastructure Development & Improvements*

- Roads, to gravel and grade
- Power Lines, three-phase and residential
- Water, main and individual tap-off
- Waste Water lines & Sewer Lagoons
- Telecommunication & Broadband
- Information Technology & Sharing
- Rural Addressing & E911
- Former Bennett Freeze Recovery Plan

#### *Economy*

- Job Creation & Business Opportunity
- Partnership
- Bank
- Energy
- Economic Zoning
- Revenue Generating & Investment

#### *Water Rights*

- Utah Water Rights
- Little Colorado River
- Colorado River

#### *Housing & Public Facility*

- Navajo Housing Authority, TDHE
- Governmental Employee Housing
- College Student Housing
- Nursing Homes
- Head Start Facilities
- Multipurpose Centers at Chapters
- Agency Office Complexes
- Council Chambers & Executive Office Complex
- Supreme Court Complex
- Judicial Complexes
- Solid Waste Transfer Stations
- Trauma Centers

*Education*

- Head Start, Early Education
- Diné Language & Culture Preservation
- Scholarships
- Grant & Contract Schools
- Tribal College & Vocational Training

*Human Services*

- Healthy Lives & Strengthening Families
- Health Department Regulatory
- Veterans
- Elderly & Youth
- Urban Services
- Treatment Centers
- Medicare & Medicaid

*Governance*

- Chapter Government
  - LGA & CLUP
  - Administrative Service Centers
  - Local Dispute Resolution & Ordinances
- Improving & Streamlining Governmental Process
- Grant & Contract Management
- Federal Law Amendments
- Utah Navajo Trust Fund
- Procurement Rule & Regulation
- Employee Professional Development
- Independent Judiciary
- Sovereignty & Diné Fundamental Law
- Budgetary Process

*Public Safety & Judicial*

- Additional Law Enforcement & Other First Responder Personnel
- Police Substations
- Fire & Rescue Services
- Equipment
- Restorative Justice

*Natural Resources*

- Land
  - Range Land Management & Improvement
  - Streamline Land Purchases
  - Livestock
  - Agriculture & Farming
  - Fort Wingate
- Water
  - Navajo/Gallup Project
- Environment
- Energy Development
- Uranium Remediation

As I stated previously, this is a brief overview of the many priorities and needs of the Navajo Nation. I do not want to convey that we are simply asking for the Federal Government's assistance, but we are instead seeking partnerships with the various federal agencies on initiatives that we are currently undertaking.

For example, over the last year the Navajo Nation Council has approved over \$330 million for water infrastructure projects, economic development projects, agricultural development, and various other initiatives. We have stepped up to the plate and put forth our own funds to address many areas identified within the list of priorities.

We look to continue meeting with the Trump Administration, Congressional members, and the Senate Committee on Indian Affairs to address these areas and to form and/or further develop partnerships to move us forward. The Navajo Nation Council is always willing and ready to sit down with all of you to discuss these issues.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HOEVEN TO  
HON. RYAN ZINKE

*Question 1.* Mr. Secretary, how do you balance taking off reservation land into trust and the balance of preventing off reservation casino shopping? The premise behind allowing tribes to open casinos was to provide an economic engine for the tribe and its members, allowing them to diversify their business interests for their long term economic success within their homelands. It appears that tribal homelands have been expanded, from their aboriginal tribal homelands. Mr. Secretary, what parameters will you put in place for this balance?

Answer. Mr. Chairman, I understand the need to find balance in the off reservation gaming process. I also know how important the land into trust process is for tribes. I have been working with Indian Affairs, particularly the Office of Indian Gaming, and the Solicitor's Office to get a better grasp on where things stand and how to best proceed. Once we have identified a path forward, I would be happy to update you.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO  
HON. RYAN ZINKE

*Question 1.* BIE School Safety. I am told that the BIE/BIA has completed inspections of all 185 BIE schools. As we discussed during hearing, please provide me with a status report on the state of BIE facilities in Arizona.

Answer. Senator, I can confirm that in FY 2016, Safety and Health inspections were conducted at 100 percent of BIE schools. The attached spreadsheet, titled FY 2016 Safety and Other Inspections Status Report, shows the 53 BIE school locations in Arizona and when their Safety and Health inspections were conducted in FY 2016. As of this response, 35 of the 53 schools in Arizona have already had their Safety and Health inspection conducted for FY 2017. The remaining schools are set to be inspected by June 2017. The following summary chart shows the condition summary for each of the 53 schools in Arizona as of the end of FY 2017 first quarter reporting:

Summary of BIE Schools Condition in Arizona by Facility Condition Index (FCI) as of  
March 31, 2017

Condition	Number	Percent
Good	12	22
Fair	11	21
Poor	30	57
Total	53	

*Question 2.* 2017 GAO High Risk report (GAO-17-317 High Risk Series). In 3 different reports dating back to 2013, the GAO made 13 recommendations to improve Indian Affairs' management of BIE schools. However, as of the 2017, eleven of GAO's recommendations remain open. When will the Department be responding to GAO's eleven outstanding recommendations?

Answer. BIE has committed to me that they are working to complete the actions recommended in each of the three GAO reports:

**GAO-13-774**

Five recommendations: (1) Develop and implement decisionmaking procedures which are documented in management directives, administrative policies, or operating manuals; (2) develop a communication strategy; (3) appoint permanent members to the BIE-Education committee and meet on a quarterly basis; (4) draft and implement a strategic plan with stakeholder input; and (5) revise the BIE strategic workforce plan.

BIE has completed the implementation of findings two, three, and five. In turn, the GAO has cleared those findings. BIE is continuing to implement GAO's recommendations with respect to findings one and four. Specifically, BIE plans to draft and implement a Departmental Manual and updated Strategic Plan as soon as possible.

**GAO-15-121**

Four recommendations: (1) Develop a comprehensive workforce plan; (2) implement an information sharing procedure; (3) draft a written procedure for mak-

ing major program expenditures; and (4) create a risk-based approach in managing BIE school expenditures.

BIE submitted a finalized closure package to GAO for recommendations two, three, and four in August 2016. BIE is continuing to develop a comprehensive workforce plan to address recommendation one. A draft has been completed, and my team is further reviewing the plan.

**GAO-16-313**

Four recommendations: (1) Ensure that all BIE schools are inspected as well as implement a plan to mitigate challenges; (2) prioritize inspections at schools where facility conditions may pose a greater risk to students; (3) develop a plan to build schools' capacity to promptly address safety and health problems with facilities and improve the expertise of facility staff to maintain and repair school buildings; and (4) consistently monitor whether schools have established required safety committees.

To address findings one and two, BIE has worked with the Bureau of Indian Affairs (BIA) to implement a Safe School Audit. The audit was successfully completed at all BIE-funded schools and the agencies started the process of implementing corrective measures for all identified deficiencies. For findings three and four, BIE is conducting ongoing staff and administrator training and is working with BIA to provide ongoing support for school safety committees through school inspections. I recognize reporting for such activities is lacking, so BIE is working with BIA to provide oversight of such inspections.

**Funding of BIE of schools.** In GAO's 2014 report *Bureau of Indian Education Needs to Improve Oversight of School Spending*, GAO estimated that the average per pupil expenditures for BIE-operated schools were about 56 percent higher than for public schools nationally in school year 2009–10, and BIE operated day schools spent an estimated average of at least \$15,391 per pupil. Please answer the following questions for both BIE-operated and tribally operated BIE schools.

*Question 3a.* Are BIE schools funded based on the number of enrolled students? If so, what proportion of funding is based on the number of enrolled students?

Answer. As an initial matter, it should be noted that the GAO report acknowledged that both student demographics and smaller enrollments in, and the remote locations of many, BIE schools contributes to this higher per pupil expenditure.

The student count submitted by schools is used to calculate the average daily membership (ADM) which then has weights applied pursuant to 25 CFR Part 39 to generate weighted student units (WSUs). With the exception of student transportation, tribal grants support costs funds, facilities operations, and maintenance funds, all other funds are allocated to schools based on their total ADM or WSU.

*Question 3b.* Is there a standard way that BIE schools report student enrollment?

Answer. Yes. Under Public Law 95–561, as amended, and 25 CFR Part 39, each student is counted based upon statutory criteria. All schools report their student count data using the Native American Student Information System (NASIS), a student count application adopted by BIE in 2005.

*Question 3c.* Do BIE schools receive additional funding weights based on student characteristics (ex: English language learners, low income students, students with special needs)?

Answer. Yes. Students receive weights for their basic academic programs and supplemental weights if they participate in a residential, gifted and talented, and/or language development program. The Department of Education has provided about 21 percent of funding for BIE schools through a variety of programs, including the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act (IDEA) Part B Grants to States program.

*Question 3d.* How do per pupil allocations differ between tribes and geography?

Answer. The per pupil allocation is calculated from the student data entered by each school in both the BIE database and via the Indian School Equalization Program (ISEP) formula. Weights are assigned to each student based on the student's grade, base program, and supplemental programs. Students with the same characteristics generate the same weights and dollar amount, regardless of school location, school operator, or tribal affiliation.

*Question 3e.* How do facilities funding processes differ between BIE- and tribally-operated schools?

Answer. The facilities funding process is the same for all BIE and tribally operated schools. The funding is calculated using the data entered by the individual school in Indian Affairs' facilities database program, Maximo. The Maximo system utilizes a formula that calculates the facility's needs based on the data from each school.

Question 3f. Using the most recent available data, please estimate per pupil expenditures at BIE schools in categories of instruction, transportation, facilities operations and maintenance, and administration.

Answer. Please see the attached table labeled as responsive to Q. 3.

**Attachments**

OPR from US Senate, Committee on Indian Affairs Oversight hearing and March 24, 2017											
Question for the Record for Secretary Zinke submitted by Senator McCain:											
3. Funding of BIE Schools											
In GAO's 2014 report Bureau of Indian Education Needs to Improve Oversight of Schools Spending, GAO estimated that the average per pupil expenditures for BIE-operated schools were about 56 percent higher than for public schools nationally in school year 2009-10, and BIE-operated day schools spent an estimated average of at least \$15,301 per pupil. Please answer the following questions for both BIE-operated and tribally-operated BIE schools.											
3f. Using the most recent available data, please estimate the per pupil expenditures at BIE schools in the categories of instruction, transportation, facilities operations and maintenance, and administration.											
School Name	Student Unduplicated Head Count	Total Instruction Cost	Per Student Instruction	Total Transportation Cost	Per Student Transportation	Total Facilities O&M Cost	Per Student Facilities O&M	Total Administration Cost	Per Student Administration	EDUCATION MANAGEMENT Per Student Administration	
PERIPHERAL DORMITORIES											
Chidawa Children's	72.33	687,997	9,512	28,470	394	389,267	5,382	164,300	2,272	354	
Skagway Chisana C	130.33	1,172,127	8,994	12,540	95	321,168	2,464	283,170	2,173	354	
Etanala Dormitory	79.67	710,927	9,521	8,690	110	375,017	4,696	225,750	3,023	354	
Isana di Communit	64	594,000	9,281	975	15	289,914	4,496	199,178	3,112	354	
Icarilla Dormitory	11.33	172,467	15,222	0	0	330,475	29,168	164,300	14,501	354	
Jonas Academy	183.67	1,026,400	8,855	472,640	2,579	405,933	2,210	291,072	1,585	354	
United Residential C	84.67	766,827	9,057	2,970	35	277,862	3,276	217,290	2,566	354	
Shiprock Associated	84.33	766,727	9,092	0	0	520,213	6,169	138,375	1,641	354	
Kinlan Boardtown	139.33	1,205,747	8,634	0	0	496,710	3,565	322,110	2,312	354	
Phoon Communitary S	63.33	596,000	9,411	354,910	5,604	416,564	6,579	187,694	2,963	354	
Richfield Residential	400.33	871,207	8,663	74,950	716	280,021	2,291	236,180	2,354	354	
Tillamook Residential	113.33	982,117	8,666	5,630	58	488,723	4,312	275,120	2,428	354	
Windrow Residential	141	1,220,127	8,653	26,530	188	347,301	2,463	269,410	2,053	354	
Blackfeet Dormitory	103.33	955,550	9,248	0	0	398,538	3,867	0	0	354	
	1,065.98	12,382,220	9,489	989,955	702	5,352,206	5,858	2,993,844	3,070	354	
BOARDING SCHOOL RESIDENTIAL STUDENTS ONLY											
Aniath Community S	34	172,600	5,076	0	0	13,334	392	0	0	354	
Chemsaw Indian Sch	354.67	3,147,000	8,630	1,201,040	3,263.50	291,107	798	0	0	354	
Chevenette-Eagle But	35.67	330,100	9,002	0	0	1,568	43	0	0	354	
Chi Chit'ish Comm S	13.67	69,800	5,106	0	0	3,442	252	0	0	354	
CHICTAW CENTRAL	113	1,801,000	12,102	4,200	37.52	28,319	251	151,993	1,345	354	
Chonahga Communit	119	1,052,300	8,843	3,070	25.58	55,241	464	186,198	1,581	354	
Circle of Nations	128	1,060,400	8,671	202,720	1,648.13	201,836	1,641	280,002	1,951	354	
Crow Creek Reserve	69.67	590,400	8,598	35,240	513.18	15,778	230	102,125	1,487	354	
Crystal Boarding Sch	30.33	155,100	5,114	0	0	11,916	391	0	0	354	
Donaipaloo Boarding	27	239,500	8,876	2,000	74.07	10,063	372	0	0	354	

School Name	Student Unduplicated Head Count	Total Instruction Cost	Per Student Instruction	Total Transportation Cost	Per Student Transportation	Total Facilities O&M Cost	Per Student Facilities O&M	Total Administration Cost	Per Student Administration	EDUCATION MANAGEMENT Per Student Administration
Dillon Community S	37.67	332,000	8,813	14,400	382.27	22,818	606	77,701	2,053	354
Drift-Hill-Cliff-Hill	48.38	573,800	11,873	1,740	36.00	24,474	505	77,701	1,608	354
Flankreau Indian Bd	246	2,126,600	8,645	396,600	1,609.76	282,768	1,149	0	0	354
Greenwood Springs	48.38	403,200	8,395	1,580	34.36	23,321	514	88,137	1,944	354
Greynills Academy H	71.67	616,200	8,598	396,620	5,538.98	47,197	659	125,124	1,802	354
Hunters Point Board	39.38	202,600	5,151	1,560	49.83	16,279	414	83,052	2,111	354
Jeelidee's Elements	32	240,400	7,513	0	0.00	18,565	580	0	0	354
Jeelidee's Elements	32	285,100	8,909	0	0.00	8,178	256	0	0	354
Kayenta Community	92	466,600	5,072	6,170	67.07	27,092	294	0	0	354
Lake Valley Navajo S	29.67	105,500	5,104	0	0.00	26,793	1,296	0	0	354
Leupin School, Inc.	47.67	415,300	8,712	0	0.00	30,189	633	106,582	2,236	354
Lukachical Communi	54.38	257,000	5,007	0	0.00	11,846	231	76,963	1,490	354
Mary Farms Commu	60	530,200	8,837	2,460	41.00	26,082	434	97,919	1,632	354
Mary Farms High Sc	91.67	783,200	8,558	9,890	104.61	62,756	685	0	0	354
Mariano Lake Comm	40	362,700	9,068	1,850	48.75	13,870	347	0	0	354
Mary Indian School	54.38	467,200	8,598	37,400	688.39	25,914	477	95,353	1,755	354
Nea Yur'ash	28	218,200	7,791	860	30.71	17,789	635	68,582	2,489	354
Navajo Preparatory S	173.67	493,200	2,840	16,810	97.37	196,660	1,144	288,486	1,661	354
Navajo Community S	21.67	139,200	6,424	660	30.46	7,608	351	44,910	2,072	354
Navajunat Communi	60.38	542,000	8,984	0	0.00	48,722	725	0	0	354
Navajunat Communi	52.38	463,400	8,855	24,510	468.37	48,289	866	108,587	2,077	354
Paschal Shumash Ind	188.38	1,025,300	8,770	83,660	452.49	188,091	745	283,799	1,531	354
Pine Hill Schools	27.67	241,200	8,735	0	0.00	8,681	314	58,287	2,103	354
Pine Ridge School	118	1,031,000	8,737	0	0.00	16,795	142	0	0	354
Pueblo Pinalto Com	102	905,400	8,876	5,090	49.90	50,488	494	0	0	354
Roadside Indian Sch	481	4,141,700	8,611	754,350	1,568.30	497,187	1,834	0	0	354
Rocky Ridge Boardin	30.67	155,600	5,073	0	0.00	12,240	399	0	0	354
Rough Rock Commu	85	806,100	8,668	7,010	75.38	82,588	673	160,752	1,729	354
Santa Fe Indian Sch	472	4,058,500	8,599	450	0.91	387,902	778	646,464	1,370	354
Seba Bellet Boarding	21.38	189,300	8,875	0	0.00	19,742	926	0	0	354
Sequoyah High School	104.67	882,300	8,598	8,200	79.87	48,185	479	163,435	1,592	354
Shoeman Indian High	367.67	3,167,200	8,614	1,176,250	3,199.20	417,803	1,136	0	0	354
Shonto Preparatory S	55.67	494,300	8,879	0	0.00	19,818	336	87,904	1,579	354
Tiencore Rosowett	39	338,100	8,669	14,250	365.38	22,872	586	70,168	1,800	354
Tla'Nablas Commu	67.38	591,600	8,787	2,630	39.80	88,555	1,018	0	0	354
Tla'Nablas Commu	71.38	399,100	5,034	3,250	17.32	16,062	225	0	0	354
Tolashil' Community	50.67	445,900	8,859	0	0.00	28,586	564	0	0	354





## FY2016 Safety and Other Inspections Status Report

Location ID	Site	Site Description	Inspection Type	Region	FY	Inspection Date	Finalized Date
H52-11	IE041	DECHIBIKON COMMUNITY SCHOOL (CIBECUE)	Safety & Health	WESTERN	2016	07/12/2016	08/02/2016
H52-12	IE087	JOHN F. KENNEDY DAY SCHOOL	Safety & Health	WESTERN	2016	07/02/2016	08/02/2016
H52-21	IE161	THEODORE ROOSEVELT SCHOOL	Safety & Health	WESTERN	2016	05/20/2016	06/02/2016
H54-11	IE137	SANTA ROSA RANCH SCHOOL	Safety & Health	WESTERN	2016	4/22/2016	08/19/2016
H54-21	IE138	SANTA ROSA DAY SCHOOL	Safety & Health	WESTERN	2016	4/21/2016	08/17/2016
H54-22	IE162	SAN SUDON SCHOOL	Safety & Health	WESTERN	2016	4/20/2016	07/21/2016
H54-33	IE167	TOHONO O ODHAM HIGH SCHOOL	Safety & Health	WESTERN	2016	4/20/2016	07/21/2016
H57-32	IE012	BLACKWATER COMMUNITY SCHOOL	Safety & Health	WESTERN	2016	06/13/2016	06/28/2016
H57-43	IE016	CASA BLANCA DAY SCHOOL	Safety & Health	WESTERN	2016	06/14/2016	06/29/2016
H57-44	IE020	GILA CROSSING DAY SCHOOL	Safety & Health	WESTERN	2016	06/15/2016	06/29/2016
H55-12	IE108	SECOND MESA DAY SCHOOL	Safety & Health	WESTERN	2016	06/30/2016	06/27/2016
H55-43	IE057	HOPI DAY SCHOOL	Safety & Health	WESTERN	2016	06/30/2016	06/29/2016
H55-44	IE058	HOTEVILLA BACANI COMMUNITY SCHOOL	Safety & Health	WESTERN	2016	06/28/2016	06/29/2016
H55-45	IE096	MORENO DAY SCHOOL	Safety & Health	WESTERN	2016	06/28/2016	06/29/2016
H55-21	IE071	KEANS CANYON ELEMENTARY SCHOOL	Safety & Health	WESTERN	2016	07/20/2016	06/29/2016
H55-22	IE098	HOPI JUNIOR SENIOR HIGH SCHOOL	Safety & Health	WESTERN	2016	07/20/2016	06/29/2016
H55-24	IE047	FIRST MESA ELEMENTARY SCHOOL (POLACCA)	Safety & Health	WESTERN	2016	07/10/2016	06/27/2016
H55-07	IE056	HAVASUPAI SCHOOL	Safety & Health	WESTERN	2016	05/18/2016	06/28/2016
N32-05	IE033	COVE DAY SCHOOL	Safety & Health	NAVAJO	2016	07/05/2016, 01/11/2016	06/27/2016
N32-07	IE121	RED ROCK DAY SCHOOL	Safety & Health	NAVAJO	2016	06/20/2016, 03/20/2016, 3/11/2016	03/11/2016
N32-10	IE163	TUS MZBAS (TEENOSPO) COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	07/16/2016, 01/17/2016, 02/19/2016	03/09/2016
N33-02	IE024	CHILCHIBETO COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	07/02/2016	02/27/2016
N33-04	IE038	DEINEHOTSD BOARDING SCHOOL	Safety & Health	NAVAJO	2016	07/02/2016	02/12/2016
N33-05	IE074	KINLANI DORMITORY (FLAGSTAFF)	Safety & Health	NAVAJO	2016	12/22/2015	01/12/2016
N33-07	IE068	KABETO BOARDING SCHOOL	Safety & Health	NAVAJO	2016	12/22/2015	01/12/2016
N33-08	IE070	KAYENTA BOARDING SCHOOL	Safety & Health	NAVAJO	2016	12/22/2015	01/12/2016
N33-09	IE080	LEUPP SCHOOL, INC.	Safety & Health	NAVAJO	2016	06/20/2016	02/10/2016
N33-11	IE099	NAATIS ANI (NAVAJO MOUNTAIN BOARDING)	Safety & Health	NAVAJO	2016	06/20/2016, 08/20/2016	02/10/2016
N33-13	IE168	TOKALEA (RED LAKE) DAY SCHOOL	Safety & Health	NAVAJO	2016	07/14/2016	02/10/2016
N33-15	IE127	ROCKY RIDGE BOARDING SCHOOL	Safety & Health	NAVAJO	2016	12/16/2015	01/11/2016
N33-16	IE144	SHONTO PREPARATORY SCHOOL	Safety & Health	NAVAJO	2016	12/17/2015	01/11/2016
N33-18	IE170	TUBA CITY BOARDING SCHOOL	Safety & Health	NAVAJO	2016	11/16/2016	02/10/2016
N33-22	IE092	GREYHILLS ACADEMY HIGH SCHOOL	Safety & Health	NAVAJO	2016	01/10/2016	01/11/2016

N33-24	IE062	LITTLE SINGER COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	2/6/2016	02/10/2016
N35-04	IE062	COTTONWOOD DAY SCHOOL	Safety & Health	NAVAJO	2016	2/26/2016	04/22/2016
N35-06	IE064	JEERDEBEA ELEMENTARY SCHOOL	Safety & Health	NAVAJO	2016	2/16/2016	03/16/2016
N35-07	IE066	LUKACHUKAI BOARDING SCHOOL	Safety & Health	NAVAJO	2016	5/6/2016	03/23/2016
N35-09	IE102	NAZJINI COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	5/6/2016	03/16/2016
N35-10	IE116	PINON COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	2/19/2016	04/15/2016
N35-11	IE128	ROCK POINT COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	3/29/2016	04/29/2016
N35-12	IE128	ROUGH ROCK COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	5/11/2016	03/31/2016
N35-20	IE065	CHINLE BOARDING SCHOOL	Safety & Health	NAVAJO	2016	5/22/2016	06/01/2016
N35-21	IE069	MARY FARWAS HIGH SCHOOL	Safety & Health	NAVAJO	2016	5/22/2016	05/23/2016
N35-23	IE010	BLACK MESA COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	4/11/2016	05/05/2016
N36-05	IE040	DILCON COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	4/13/2016	05/05/2016
N36-06	IE061	GREASEWOOD SPRINGS COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	4/22/2016	05/23/2016
N36-09	IE102	TIISTYAKIN RESIDENTIAL HALL (HOLBROOK)	Safety & Health	NAVAJO	2016	4/15/2016	04/29/2016
N36-11	IE060	HUNTERS POINT BOARDING SCHOOL	Safety & Health	NAVAJO	2016	1/21/2016, 1/22/2016	04/03/2016
N36-14	IE073	KIN DAH LICHIT OLA (KINLICHEE)	Safety & Health	NAVAJO	2016	2/29/2016	04/03/2016
N36-18	IE115	PINE SPRINGS DAY SCHOOL	Safety & Health	NAVAJO	2016	4/22/2016	04/25/2016
N36-19	IE138	SEBA DAIKAI BOARDING SCHOOL	Safety & Health	NAVAJO	2016	4/12/2016	05/10/2016
N36-24	IE179	WIDE RUNS COMMUNITY SCHOOL	Safety & Health	NAVAJO	2016	3/6/2016, 3/10/2016	04/22/2016
N36-25	IE162	WINSLOW RESIDENTIAL HALL	Safety & Health	NAVAJO	2016	4/14/2016, 4/22/2016	04/29/2016

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JAMES LANKFORD TO  
HON. RYAN ZINKE

*Question 1.* There are times that a tribe may place land into trust for the purposes of economic development or other venture then, sometime later, decide to utilize the land for gaming. In this type of situation, are there any steps the tribe must go through to seek authorization from the Department before gaming may be conducted? How do these steps, if there are any, compare to the process the tribe would go through if they had originally applied to place the land into trust for gaming? (Please answer for situations where the land is on and off of the tribe's reservation or, the case of Oklahoma, on or off of the tribe's former reservation boundaries.)

Answer. Any land upon which a tribe wishes to conduct gaming must be legally eligible for gaming per the criteria set forth in the Indian Gaming Regulatory Act (IGRA). Tribes often apply to the Department or to the National Indian Gaming Commission for an Indian Lands Determination, which is a legal opinion about the eligibility of the land for gaming.

In addition to a determination of whether the lands are eligible for gaming, IGRA requires that tribes conducting class III gaming enter into a tribal-state compact with the state in which the gaming enterprise is proposed. Class III gaming is lawful only if authorized by a tribal ordinance or resolution that is approved by the National Indian Gaming Commission (NIGC). Tribes must also license gaming facilities and notify the NIGC of such licensing. If a tribe elects to have its casino managed through a third-party, a gaming management contract must also be approved by NIGC. In cases where the lands are already in trust, the NIGC typically determines whether the lands are eligible for gaming.

*Question 2.* Can you provide a list of any casinos operating under the authority of the Indian Gaming Regulatory Act in Oklahoma that are on land originally placed into trust for a different purpose then later utilized for gaming?

Answer. Senator, the Department has not historically maintained a list of Tribal gaming facilities that are on land originally placed into trust for another purpose. That said, we are interested in looking into methods to better track this information during my tenure.

*Question 3.* Over the last few years, I have asked the Department to provide a detailed listing of metrics used to gauge the success and impact of individual programs relating to Indian Country. This has included a request of the Department to provide individual program level goals and plans made in advance of an upcoming year (fiscal or calendar) than any review conducted to determine whether or not the individual program has met those goals after the conclusion of that year. In response the Department has provided aspirational goals for solving issues or problems in Indian Country each year but not any program level metrics, goals, or plans followed by analysis at the end of the year on how well those goals or plans were met. Will this level of detailed program goal planning and measuring be a priority under your leadership and, if so, could you provide any initial program level goals you and your staff have started to develop?

Answer. As a former military commander, I place great merit in setting detailed goals for my team to assess what we have done and where we are going. I will lead the Department forward in this same way. Data should drive the policy, and I will work to identify, track, and improve performance metrics for our programs.

*Question 4.* Do you believe there are ways to improve the provision of programs and benefits for Indian Country by increasing cooperation and coordination between the Department and the various other federal Departments that provide services to American Indians and tribes? Specifically, are there ways to ensure that the Department is not operating and funding programs seeking to accomplish the same or similar goals as programs housed in other cabinet level Departments?

Answer. I firmly believe there are ways for the federal government to coordinate more efficiently and effectively with tribes, which is why I committed to Chairman Hoeven at the hearing to work with my colleagues across the various Departments to make our work as efficient and effective as possible. I, too, believe it is important to review programs and services to ensure they are not duplicative in scope and funding. We must be resourceful while also continuing to fulfill our trust responsibilities to tribes.

*Question 5.* In what ways will the Administration support tribes seeking to leverage their energy resources for economic development? Would this include providing technical support for tribes seeking to take over the management of resources and the issuance of permits for energy development?

Answer. I am committed to evaluating all opportunities within the Department to strengthen and support tribes' abilities to develop their energy resources as they so choose.

*Question 5a.* As of the end of 2016, no tribe had entered into a Tribal Energy Resource Agreement (TERA) as allowed by the Energy Policy Act of 2005. Will the Administration put in place clear protocols that will allow interested tribes to easily enter into these agreements?

Answer. As Secretary, I want to ensure we use existing authorities so tribes have the ability, authority, and independence to control their energy futures.

*Question 5b.* In at least some situations, the BIA must give final approval for permits for oil and gas development on tribal land. If a relevant tribal governing authority has given sufficient review and approval to that permit before it is considered by the BIA, would the Administration consider a policy that this review and sign-off is not a federal action under NEPA if that tribal authority has agreed to a waiver of federal liability for any actions occurring after that permit is approved?

Answer. Like the President, I am dedicated to putting our nation back on track towards energy independence and creating good paying jobs. This also applies to tribes who are interested in developing their resources, from coal to wind energy. I commit to you that I will review policies that will empower tribes to responsibly develop their own resources, if that is their choice.

*Question 6.* Does the Department intend to conduct a count this year of Indian students attending public schools for the Johnson O'Malley Program?

Answer. Recognizing that congressional action is needed to change the current funding methodology, I have tasked BIE to complete a new student count and will work with JOM contractors to ensure JOM students are included.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AL FRANKEN TO  
HON. RYAN ZINKE

*Question 1.* Indian Gaming. Secretary Zinke, the Indian Gaming Regulatory Act mandates that Indian tribes use gaming net revenue for government purposes. These funds supplement basic services like health care, education, housing, public safety, and roads. The Indian Gaming Regulatory Act also expressly prohibits state taxation of tribal gaming. Despite this, I have heard from tribal leaders concerned that the Trump administration might push for state taxation of tribal gaming, which would be in line with President Trump's past unfavorable statements regarding Indian gaming.

Secretary Zinke, will you protect Indian gaming against any new taxes or regulations that will limit the existing rights of tribal governments to conduct gaming on their lands under the Indian Gaming Regulatory Act?

Answer. I am an advocate for tribal sovereignty and self-determination. In considering any new regulations or policies, I will comply with Federal laws, including IGRA, and the Department's tribal consultation policy.

*Question 2.* Sexual Violence in Indian Country. A recent National Institute of Justice report found that more than half of American Indian and Alaska Native women and more than one in four men have experienced sexual violence in their lifetime. And among those who have experienced sexual violence, almost all—96 percent of women and 89 percent of men—have been victimized by a non-Indian partner. That is a horrific statistic. And despite their prevalence, crimes of sexual violence committed by non-Indians in Indian Country often go unprosecuted and unpunished, leaving victims without justice and offenders on the loose. So last Congress, Senator Murkowski and I introduced the Justice for Native Survivors of Sexual Violence Act, which would recognize and reaffirm Indian tribes' inherent power to exercise criminal jurisdiction over non-Indians who commit crimes of sexual violence in Indian Country. This commonsense legislation will lay the groundwork for tribes to address sexual violence in their communities in a meaningful way, and I'm looking forward to reintroducing the bill soon.

Secretary Zinke, for your part, I want to know from you how the Interior Department will work with tribes to strengthen their tribal justice systems and ensure that they have the resources they need to take on this critical work. I also understand that the Department of Justice has the primary responsibility for investigating and prosecuting crime in much of Indian country. When Senator Sessions came before the Judiciary Committee, I asked him about his views on these issues and was concerned by how much he has to learn about law enforcement in Indian Country. Can you assure me that you will coordinate and share information with

the DOJ to ensure that there is a comprehensive understanding of how these crimes impact Indian Country?

As a follow-up Secretary Zinke, I would encourage you to bring the Attorney General with you the next time you visit Indian Country.

Answer. Senator, I will work closely with the Attorney General and our colleagues at the Department of Justice to strengthen our collaborative efforts to keep Indian Country safe and to ensure that victims of crimes are able to seek justice.

*Question 3. School Construction.* Indian school construction is always in need of increased funding. Bureau of Indian Education schools across the country are falling apart. In Minnesota, after years of fighting for funding, we were finally able to start construction to rebuild the Bug-Onay-Ge-Shig high school last summer. American Indian students should not be excluded from receiving an exceptional education. Yet Indian school buildings are often unsafe, harmful to the health of children and teachers, and are ultimately a barrier to the education of students.

Secretary Zinke, in your testimony you state that—and I quote—“It is unacceptable that some of our students are attending schools that lack the most basic necessities, like insulation and clean water.” I agree. But we can’t prevent this problem without adequately funding school construction. As our new Secretary of the Department of the Interior, will you commit to fighting for increased funding for BIE school construction so our Indian students don’t have to learn in unsafe settings?

Answer. My staff and I are committed to addressing BIE school infrastructure needs. We continue to review new approaches to ensure all funds are utilized effectively and efficiently. I want to guarantee that the projects we support improve safety and foster a conducive environment for our students to receive an exceptional education.

*Question 4. Opioid Crisis.* In Minnesota and across the nation, opioids have become a public health emergency. Indian reservations in my state have been on the frontline of this crisis and the statistics of how this is impacting future generations is incredibly troubling. In fact, American Indian women are 8.7 times more likely to be diagnosed with maternal opiate dependency during pregnancy compared to non-Hispanic whites, and more than one in ten newborns among American Indian women in Minnesota are born opioid dependent. I’ve met with many tribal leaders, and what’s clear from these meetings is that we need a multipronged approach to address the opioid crisis in Indian Country. We need more research, less over-prescription, greater resources for prevention, and better access treatment.

Secretary Zinke, how do you plan to collaborate with your federal counterparts at IHS and HHS, as well as state, and regional stakeholders to create interventions to combat the opioid epidemic? And how will you leverage input from Native Americans or other communities to develop effective, culturally-based interventions?

Answer. I have seen firsthand what the opioid crisis has done to tribes in Montana. It is devastating to see the shattered families and communities who continue to suffer from the effects of opioids. While the majority of substance abuse services to Indian Country falls under the Department of Health and Human Services (HHS), I see great merit in collaborating with my colleagues across agencies to meaningfully address the epidemic. This also includes consulting with tribes on a path forward.

*Question 5. Dental Therapy.* The lack of consistent and reliable access to oral health care has long been an issue facing Indian country. Increasingly, tribes have expressed interest in utilizing mid-level providers such as dental therapists to address this need. States like Minnesota and Alaska—have already authorized the ability for dental therapists to practice—and have demonstrated that dental therapists increase access to critically needed and culturally competent care for rural and Indian communities.

Secretary Zinke, will you commit to working with your colleagues at the Indian Health Service and Department of Health and Human Services to address the health care needs of American Indian tribes by continuing to build on models that promote increased access to quality oral health care?

Answer. Yes, I will work with my colleagues at IHS and HHS to better coordinate and support health needs across Indian Country.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO  
TO HON. RYAN ZINKE

*Question 1.* In my home state of Nevada, the recently designated Gold Butte National Monument protects a wealth of cultural resources of significance to the entire American people, but in particular Native American tribes of this area. Moapa Band

of Paiutes, Las Vegas Paiute Tribe, Ely Shoshone Tribe, and the Paiute Indian Tribes of Utah supported the designation of this monument.

As steward of these lands, will you commit to protecting these cultural resources and taking into account the support of these tribes when considering any decisions regarding future management of the Gold Butte National Monument?

Answer. Regardless of the issue, consultation with tribes is paramount. I remain committed to working with tribes on a government-to-government basis, particularly when it pertains to matters under Interior's jurisdiction.

*Question 2.* When ancestral tribal lands or sacred lands are managed by another government entity such as the Bureau of Land Management, which you oversee, what is your vision of the Department's responsibilities to the tribes in area management?

Answer. Senator, I strongly believe government-to-government consultation is key when making any land management decisions. I remain committed to working with tribes to ensure meaningful consultation occurs, not only with the Bureau of Land Management, but the other bureaus I oversee.

*Question 3.* One issue that is of serious concern to tribal communities in Nevada and across the region is the vandalism and destruction of cultural resources like petroglyphs as well as looting and grave robbing.

At places like Gold Butte National Monument, these incidents have continued to be a concern to the locals. While the national monument designations sought by tribal leaders are a step in the right direction to provide further protections, I need your assurance that they will continue to be protected.

What is your vision for ensuring federal law enforcement and federal land managers have the tools and resources necessary for preventing looting and vandalism which destroys cultural resources and sacred sites?

Answer. Our federal land managers and law enforcement personnel provide critical services in the field. This includes protecting important cultural resources and sacred sites. As Secretary, I seek to inspire and empower those on the ground to perform these important jobs to the best of their abilities.

*Question 4.* Some have suggested eliminating federal law enforcement on federal lands and shifting this responsibility onto our already overburdened law enforcement. Given the specialized training needed for these entirely different law enforcement roles and the federal trust responsibility that exists for protecting these lands, do you think it is appropriate to eliminate federal law enforcement on federal lands?

Answer. As Secretary of the Interior, I believe our law enforcement personnel perform a critical role on the front lines to protect our tribal communities, along with natural resources and the people who access them. I am committed to ensuring they are amply supported in their roles. At the same time, it is imperative that the Department continue to collaborate with state, tribal and local law enforcement in situations requiring greater support.

*Question 5.* The Federal Government is required to, and has a responsibility to, engage in regular and meaningful government-to-government consultation and collaboration with tribal officials.

Do you believe that the government's consultation policy was followed properly in the decisions surrounding the Dakota Access Pipeline in North Dakota?

Answer. As Secretary, I am working to rebuild trust among our great Indian Nations, which comes from mutual respect. I believe that through mutual respect, we can seek common ground on matters such as infrastructure projects.

*Question 6.* The President has supported projects, like DAPL, as not only energy investment but as critical infrastructure. He also supported a \$1 trillion infrastructure package.

Consideration this directive, what do you believe is the appropriate amount to allocate to tribes to address their critical infrastructure needs?

Answer. The Department is currently reviewing infrastructure needs across Indian Country. The President's infrastructure plan is currently under consideration, and as possible consideration moves forward, I will seek to work with others in the Administration bring to light infrastructure needs across Indian Country.

*Question 7.* What is your estimate of the overall need in Indian country? What are your top priority infrastructure needs in Indian country, and how do you plan to address their critical infrastructure needs?

Answer. I learned very quickly in Congress that our nation's tribes are not monolithic. As Secretary, I now know their infrastructure needs are equally as diverse. This is why I have tasked leaders within Interior to evaluate and assess infrastructure priorities under Indian Affairs, which includes Bureau of Indian Education

schools. We continue to gather and prioritize these needs as part of an ongoing process.

*Question 8.* The Federal Government is required to, and has a responsibility to, federal agencies to engage in regular and meaningful government-to-government consultation and collaboration with tribal officials.

Will the government's consultation policy be appropriately upheld with this new Administration?

Answer. As I stated at the hearing, sovereignty should really mean something. I remain committed to collaborating on priorities in Indian Country on a government-to-government basis, always as equals, not rivals.

*Question 9.* What commitments have you made to tribes on investments in infrastructure for tribes? Please provide details and any Nevada specific information.

Answer. My team at Interior is evaluating infrastructure needs across the Department, including in Indian Country. Those evaluations and reviews remain ongoing.

